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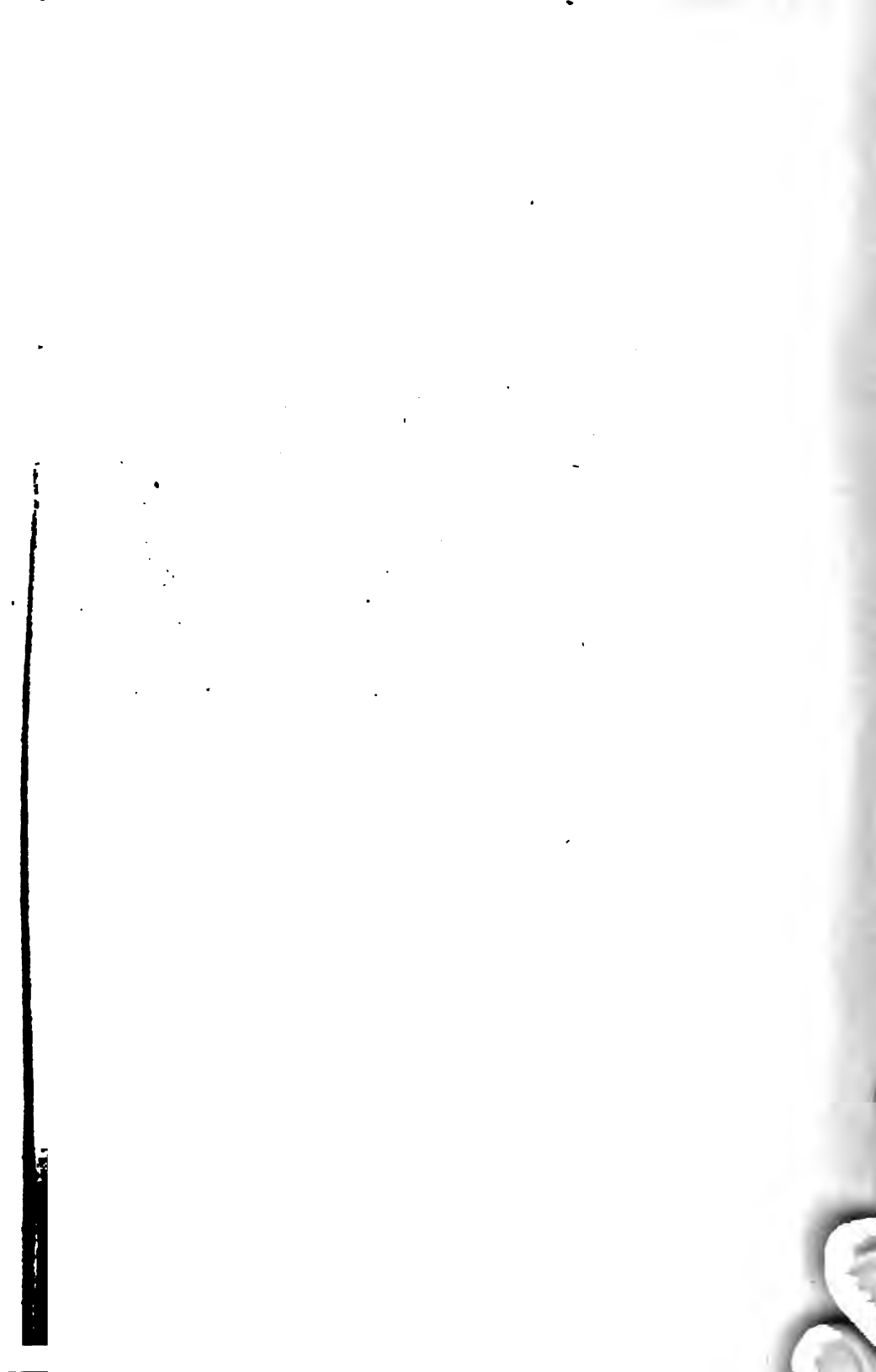
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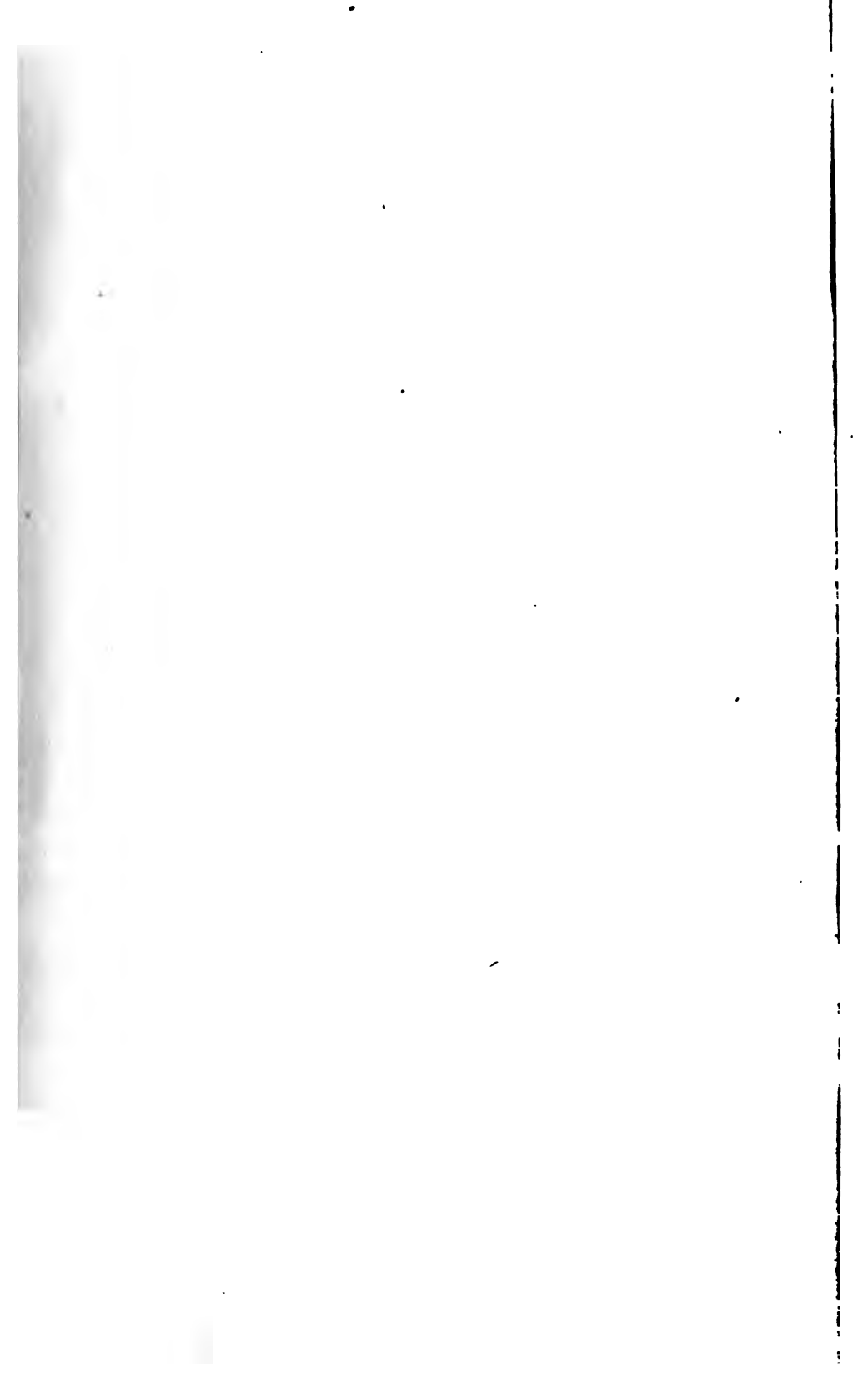
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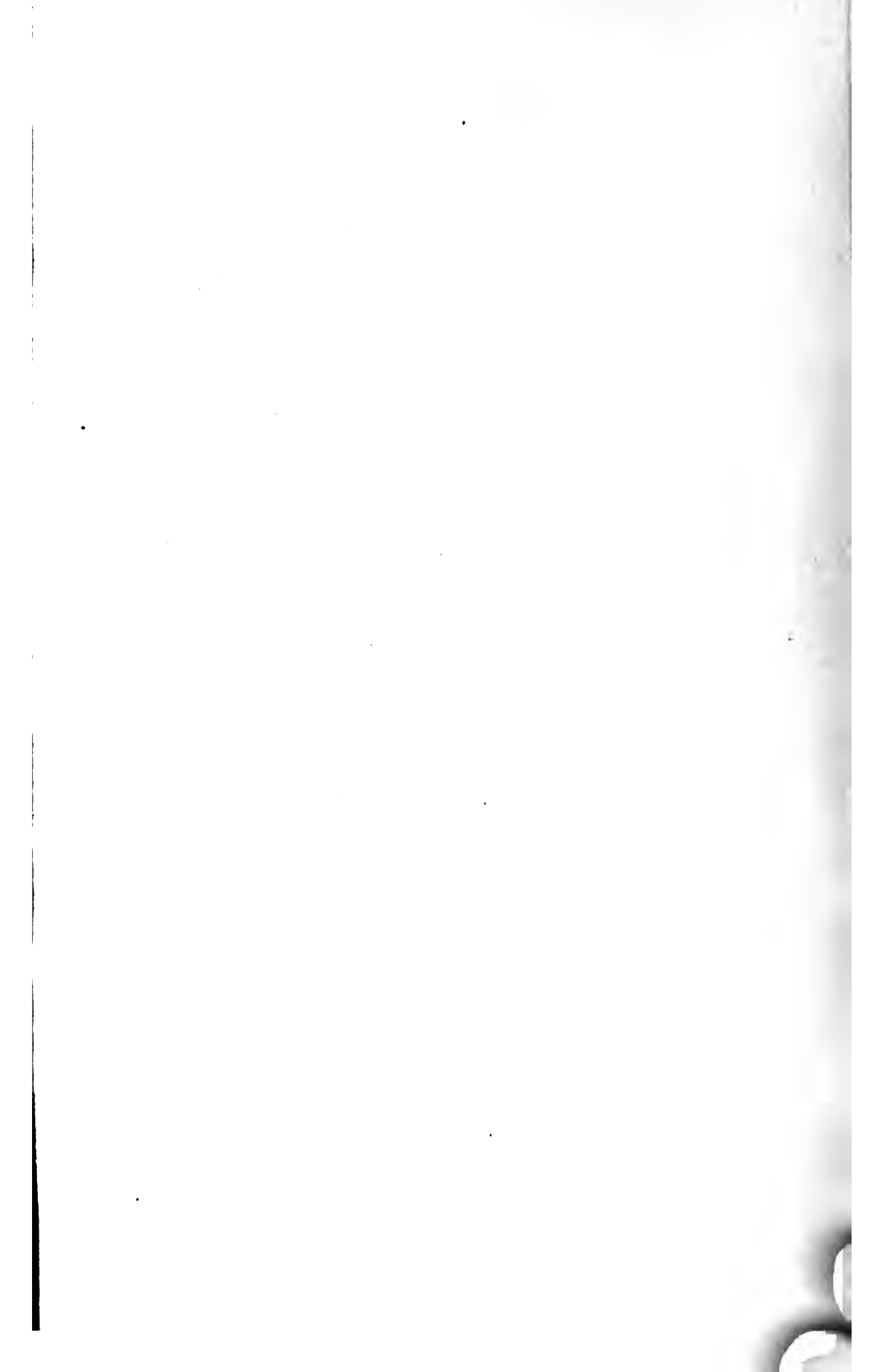
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TENTH ANNUAL REPORT

OF THE

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Board of Railroad Commissioners

OF THE

STATE OF NEW YORK,

For the Fiscal Year Ending June 30, 1892.

TRANSMITTED TO THE LEGISLATURE JANUARY 9, 1893.

COMMISSIONERS:

SAMUEL A. BEARDSLEY, | MICHAEL RICKARD,
ALFRED C. CHAPIN.

VOLUME I.

ALBANY:

JAMES B. LYON, STATE PRINTER.

1893.



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STATE OF NEW YORK.

No. 9.

IN SENATE,

JANUARY 9, 1893.

TENTH ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS ON THE
RAILROADS OF THE STATE.

OFFICE OF THE
BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *January 9, 1893.*

To the Legislature :

The Board of Railroad Commissioners, agreeably to the provisions of chapter 565, Laws of 1890, as amended by chapter 676, of the Laws of 1892, transmits herewith to the Legislature its Tenth Annual Report, for the year ending June 30, 1892.

WILLIAM C. HUDSON,

Secretary

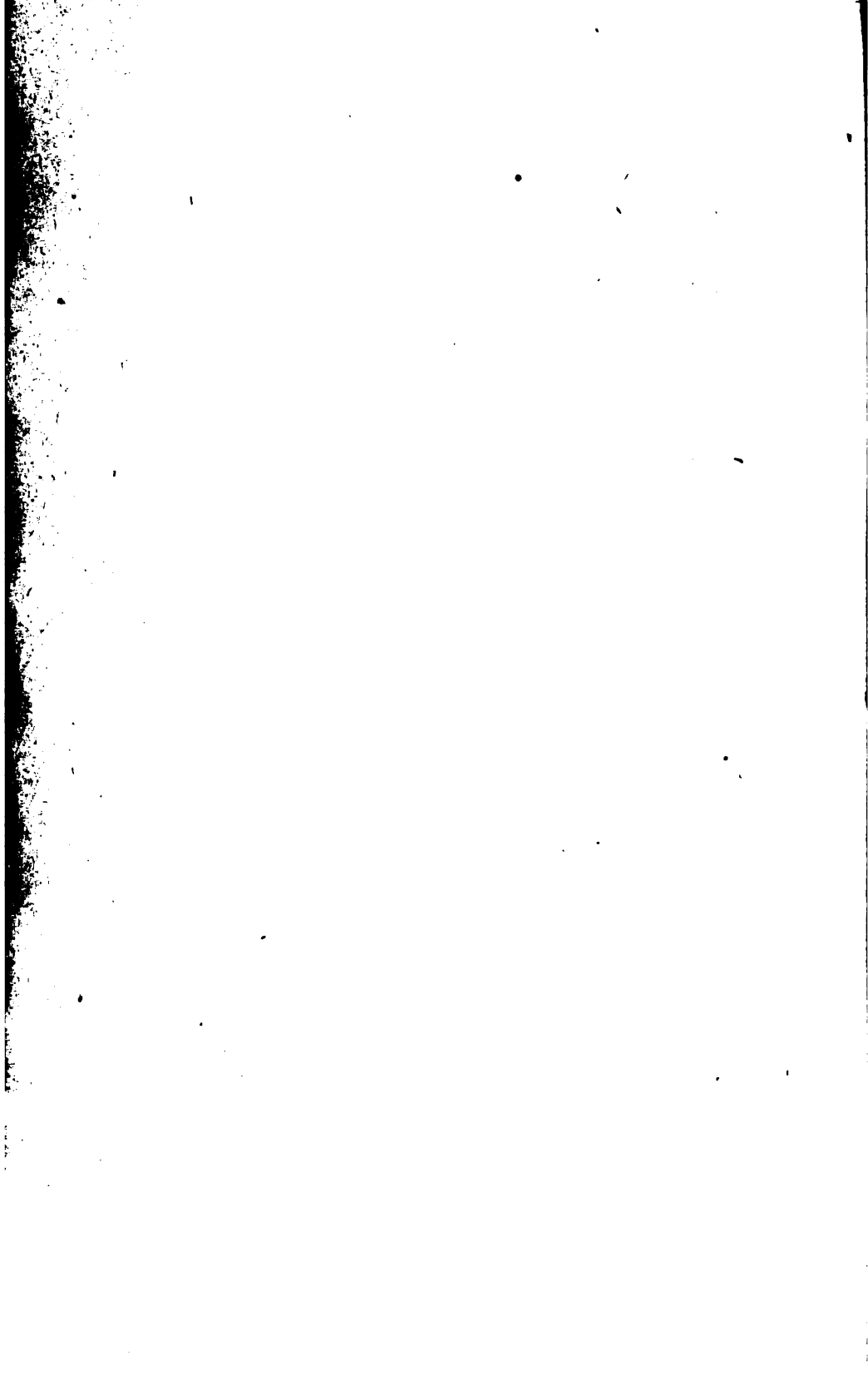
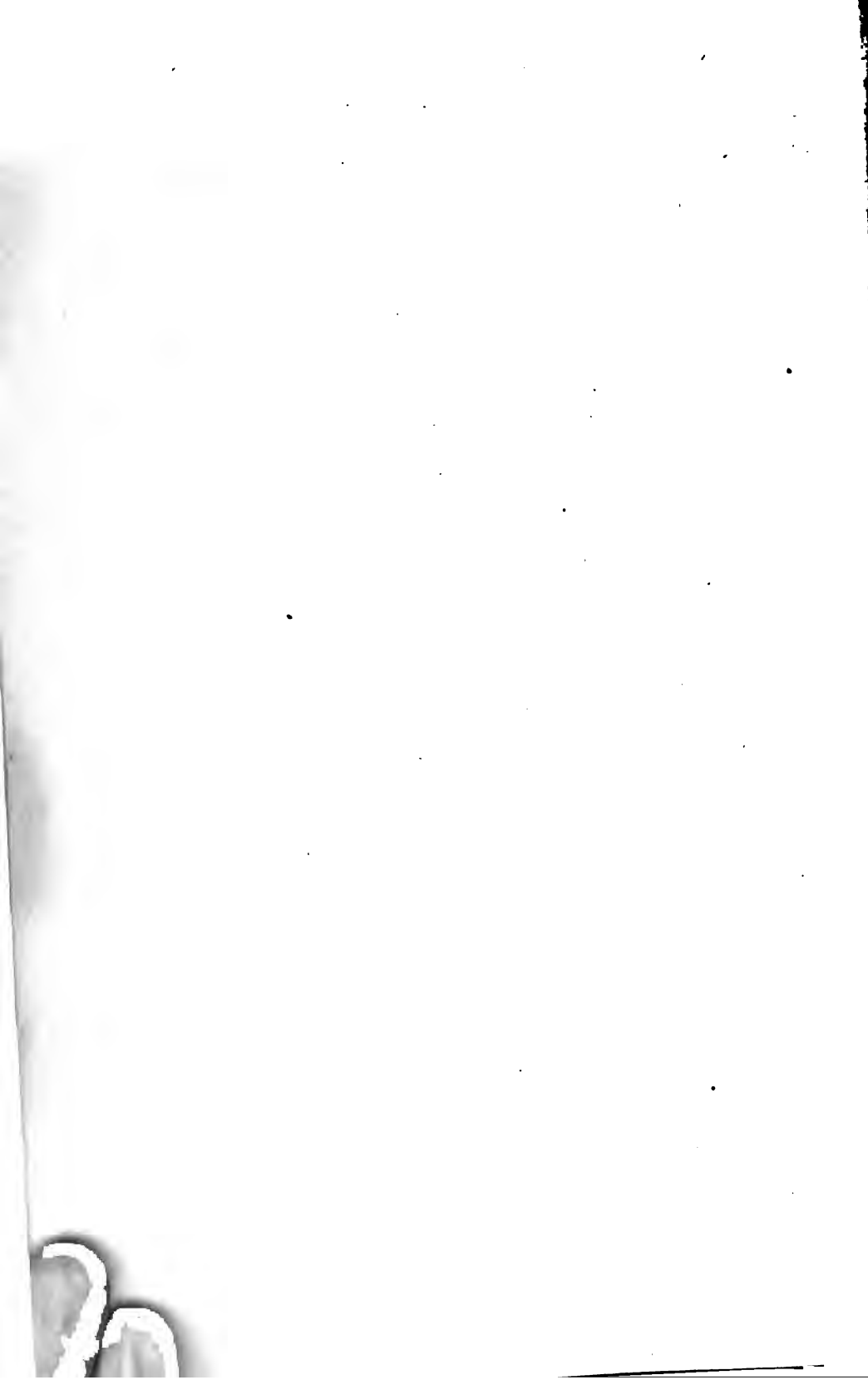


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REPORT.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, January 9, 1893. }

To the Honorable the Legislature:

In conformity with the requirements of chapter 565 of the Laws of 1890, as amended by chapter 676 of the Laws of 1892, the Board of Railroad Commissioners submits its tenth annual report.

GENERAL SITUATION.

During the twelve months under consideration, the tonnage carried has been slightly in excess of that of the previous twelve months; rates have been slightly lower, so that the net results have been much the same. No general rate war has occurred and but little disturbance of rates, especially on the trunk lines east of Chicago.

From the railway point of view conditions can be improved. Apprehensions exist as to the future. The roads see in the prevailing conditions possibilities of disagreement and contests for the carrying trade, which may end in rate wars. Peace has been maintained, but without any assurance that it will be lasting. This is shown by the agreement which went into effect on the first of December last, and by which it is hoped to secure the proper proportion of the east-bound traffic to the less advantageously situated roads, and their consequent satisfaction and contentment. This arrangement will probably be popularly known as a new scheme of "pooling," but the roads contend that it is not a violation of the Interstate Commerce Law.

In all such efforts, the end sought is to make rates fixed and stable. The stronger roads, while asserting that they are, under any conditions, able to take care of themselves and, therefore, do not favor "pooling" systems, nevertheless admit that no better scheme of securing such fixed and stable rates has been suggested. They further insist that the decisions of the courts upon the various points relating to the Interstate Commerce Law have rendered

that law in many respects a nullity, and have destroyed it as a restraining force upon railroad agents seeking business. The great evil which they see in the existing state of things is that everybody concerned in the carrying traffic, railroads and forwarders, is doing business in the dark; that the shipper does not know what rates his more powerful competitors may be receiving and is crippled in his enterprises by the lack of such knowledge; that in the many possibilities existing for the evasion of the prohibitive clauses against discrimination, the chief of which they deem to be in the mileage paid for the use of cars owned by the shippers, the smaller shipper is crowded out of the market, and that all things inure to the benefit of the larger ones, who can dictate rates to the carrier. Their great argument for a change in the existing conditions is that the longer they are maintained the more difficult the small forwarder finds it to contend against his larger and more powerful competitors.

The commercial public also demands fixed and stable rates, but which shall be reasonable and alike to all. There is little evidence, however, of agitation upon its part. It might be supposed that it was apathetic, were it not believed that it is relying upon the Interstate Commerce Law to secure that end. It is to be doubted whether the reliance is well placed.

The one feature which distinguishes the past twelve months from those previous is the formulation of the demand for the repeal of section 5 of the Interstate Commerce Law, which prohibits "pooling," and the proposition that such "pooling" arrangements shall be sanctioned by law and subject to the supervision of the Interstate Commerce Commission.

After examination and discussion a bill has been submitted to Congress repealing the section. The Interstate Commerce Commission has collected opinion upon the point with a view, it is assumed, of advising Congress.

It is the opinion of the Board that the section should be repealed and that "pooling" should be permitted, under the supervision of the Interstate Commerce Commission. Discrimination has not been prevented under the law. There have been many evasions, and now, under the decision that its pro-

visions, which sought to compel railroad officials to testify against themselves, are unconstitutional, section 2 can not be enforced. In these circumstances discriminations are more likely to increase than to decrease. The experiment is worth trying. Subject to law and supervision by the commission, it is possible to guard against the abuses of the old system, to maintain reasonable rates and to enforce the contracts between railroads. Such a policy would secure fixed and stable rates, reasonable and alike to all.

SUMMARY OF BUSINESS.

An increase in business on the railroads in this State, as compared with the previous year, is shown in the aggregate figures for the year ending June 30, 1892. The receipts have, however, been slightly less, so that net results vary little. The increase is confined to the through lines, since the smaller ones show a slight decrease of business. In the second volume of this report the details and totals of the individual roads will be found in full. A few of the grand totals and the more important final results are given in the usual table next following:

	For year ending June 30, 1891.	*For year ending June 30, 1892.
Gross earnings from operation of road	\$169,012,504 22	\$213,998,745 98
Operating expenses	113,528,346 87	143,394,445 67
Net earnings from operation of road	55,484,157 35	70,604,300 31
Income from other sources than operation of road	4,965,163 92	6,375,595 64
+ Interest paid and accrued	29,168,321 21	35,538,003 01
Taxes	6,067,549 96	6,294,158 96
Miscellaneous	1,427,472 92	1,765,222 14
+ Dividends declared	16,189,856 98	18,011,348 56
Surplus	2,893,183 68	2,401,164 09
Stock and debt	1,844,190,064 96	1,598,575,289 66
Cost of road and equipment	1,270,365,163 12	1,398,880,501 00
Percentage of gross income to cost of road and equipment	04.76	05.50
Percentage of net income to capital stock	02.96	03.18
Percentage of dividends declared to capital stock	02.50	02.72
Miles of road in New York State, main line	7,651.17	7,770.36
Tons of freight carried one mile	14,577,616,629	19,460,098,145
Average freight earnings per ton per mile (cents)	0.767	0.764
Average freight expenses per ton per mile (cents)	0.522	0.563
Average freight profit per ton per mile (cents)	0.245	0.261
Passengers carried one mile (exclusive of elevated roads)	2,573,940,299	2,960,466,765
Average earnings per passenger per mile (cents)	2.22	2.21
Average expenses per passenger per mile (cents)	1.45	1.54
Average profit per passenger per mile (cents)	0.77	0.67

* About seventy per cent of the apparent increase of grand totals in 1892 is due to the fact that the operations of the *entire* Philadelphia and Reading system are embraced in the 1892 figures, whereas in 1891 a very small portion of such system, lying wholly in New York State and operating its own lines until date of the lease to the Philadelphia and Reading December 1, 1891, is included in totals for that year.

+ Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	Year ending June 30, 1891.	Year ending June 30, 1892.
Interest	\$7,904,005 78	\$8,291,339 84
Dividends	3,831,616 78	4,391,046 46

CHANGES IN THE LAW.

Chapter 289 of the Laws of 1889 created a commission to revise the general laws, and among them the railroad laws. The work thus begun, however, did not stop at revision. Before the Legislature had finally enacted the bills prepared by the commission, many changes, some radical, were made. The laws enacted in 1890 did not go into effect until May 1, 1891. During the year when the law was in abeyance defects were discovered in it. The commission prepared a bill to correct these defects, which was presented to the Legislature of 1891. It failed to pass owing to the "dead-lock" in the Senate of that year, and the "Railroad Law" of 1890 went into effect on May 1, 1891, uncorrected. During the year following the railroad corporations of the State were much embarrassed in the operation of their franchises under the incongruities of the law. This was not without advantage, however, as during the passage of the act of 1890 the attitude of the corporations had been obstructive; after a year's experience of the new law their attitude changed and they united with others in revision. The result was a bill, which, after many amendments, became chapter 676 of the Laws of 1892.

Six months experience of the law demonstrates that the railroad corporations are content with it. The public has gained greatly by the enactment of safeguards which selfish interests had heretofore defeated.

The provisions governing the increase of capital stock have been maintained and perhaps improved. Those governing the issue of bonds have been materially changed; indeed, it may be said, the policy of the State, in this respect, has been completely reversed. For many years it had been contended that the power conferred by the law of 1850 upon the boards of directors of railroad corporations to issue bonds had been abused in placing burdens upon the corporations they ought not to be compelled to bear. As a result of this agitation the Legislature of 1887 so amended subdivision 10 of section 28 of chapter 140 of the Laws of 1850 that the consent of the majority of the stockholders was made necessary to such issue. The law of 1890 maintained this principle by enacting the provision of "The Railroad Law"

which conferred the power upon the directors of a railroad corporation to borrow money, to issue and dispose of its bonds and to mortgage its property to secure their payment, subject to the control of section 2 of "The Stock Corporation Law," which provides that the amount of the mortgages "shall not exceed its paid-up capital stock, or an amount equal to two-thirds of the value of its corporate property at the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid-up capital stock," and that "no such mortgages, except purchase-money mortgages, shall be issued without the consent of the stockholders owning at least two-thirds of the stock of the corporation." The law of 1892 frees the railroad corporations in the exercise of the debt-making power, from the restriction of the clauses of section 2 of "The Stock Corporation Law," quoted above, leaving the law as it stood prior to 1887 — with the power to create debt in the hands of the directors.

The Railroad Law of 1892 imposes new duties and responsibilities upon the Board of Railroad Commissioners, the most notable of which reverses the policy of the State touching railroad extension, a policy which has prevailed since 1850. In that year, under the influence of public opinion, all encouragement that could be given, in the law, was extended to proposed investors. The policy then adopted has had a great influence upon the development of the State, but in the course of years abuses have crept in; railroads have been projected and built upon parallel and competing lines, which had no purpose but to compel older and established lines to buy the property of the rival or to sell their own. For a time these projects were looked upon with equanimity, as it was believed that such competition benefited the community through which the road passed by lowering rates, but it was discovered that such belief was fallacious. Unequal and unstable rates followed from the contests between the companies, which ended either in an agreement for higher rates or in the absorption of one company by the other, with the consequence of establishing higher rates permanently to support two constructions and equipments where one had sufficed. In the end communities

were the sufferers; the day when the Legislature could interfere and lower rates be made was postponed indefinitely. Other evils followed, such as niggardly economy in maintenance and in service, until public opinion demanded a restraint upon railroad building and extension. This restriction is expressed in section 59 of the Railroad Law of 1892, whereby the consent of the Board of Railroad Commissioners to the building of a road is a condition precedent to beginning an enterprise. The consent or withholding the consent on the part of the Board is made reviewable by the courts. In short, the State has determined to reverse its policy of the past by insisting that a public necessity shall be declared before further lines of railroad shall be built.

While increased duties and responsibilities have been imposed upon the Board, the machinery to enforce its recommendations, which had been erected by the law of 1890, was weakened by the law of 1892. The act of 1890 provided that the Supreme Court at special term should have power to compel compliance with the decisions and recommendations of the Board which were just and reasonable, subject to appeal to the General Term and the Court of Appeals, which were empowered to review and reverse upon the facts as well as upon the law, and made the findings of the Board *prima facie* just and reasonable. The latter provision, by the law of 1892, has been stricken out, the effect of which is to place the burden of proof upon the State rather than upon the railroad company.

In the revision of "The Railroad Law," the State has carefully guarded the rights and interests of its citizens, while permitting the freedom necessary to the proper administration of so intricate a machine as a railroad. The gain thus accomplished can be preserved only by maintaining the integrity of the law as it stands against the inroads attempted by selfish interests, seeking selfish ends, regardless of other consequences.

In the matter of safety, however, all has not been secured. This is not a reflection upon the framers of the revision, for the subjects which are now recommended for the consideration of your honorable body are peculiarly within the province of this Board.

The first of these to which your attention is directed, is

GRADE CROSSINGS.

This subject is a vexed one. It is, however, one that must be met and disposed of. During the past five years 717 accidents have occurred at grade crossings, of which 238 have resulted in death and 279 in injury. In addition to this more serious consideration, there is the annoyance of delay to foot passengers and traffic, caused by the passage of long trains and the blocking of streets and highways by standing ones.

The tendency is to increase grade crossings, not only by railroad extension, but by opening new streets and highways. The time has arrived to prohibit further crossings at grade.

In the case of new railroad construction the matter is easily disposed of. All crossings should be made either over or under, and at the expense of the constructing company.

When, however, a new highway is projected across a railroad, the grade of which is established and which is operated, a number of questions as to the equitable method of procedure arise. What part of the expense should be borne by the road? And what part by the towns, villages or cities in which the street or highway is to be laid out? Should any part of the expense be borne by the towns, etc.? And, if so, should it be a sum greater than that the towns, etc., would have had to bear if the railroad construction was not on the line of the projected highway? And, if the question of the division of the expense is disposed of satisfactorily, which party shall be the judge of the nature and cost of the construction on and over the railroad property? And which party shall have charge of such construction?

After a careful consideration of the question the Board is of the opinion that the expense should be borne by both interests. The railroads admit that they should bear part of the expense. It remains to determine what proportion. The Board is of the opinion that one-half should be borne by the roads, in view of the franchise rights they enjoy, of the danger to the public incident to the exercise of those rights, of the increased protection to their property which would result from under or over crossings, of the advantages gained by not being compelled to lessen speed, and of the diminution of the pecuniary liabilities as a result

of such crossings. On the other hand, the communities through which they pass are greatly benefited and the properties of such communities are increased in value by the roads. The expense incident to such great benefits should be borne in just proportion by the interests benefited. The imposition of one-half of the expense upon the town, village or city, would operate as a check on the unnecessary opening of streets and highways.

The Board further believes that a commission of three persons should be appointed by the courts to determine the nature and cost of the construction under or over the railroad property. Of these, one should represent the railroad; one, the town, village or city, in which the street or highway is laid; and one should be a competent civil engineer.

The existing grade crossings remain to be considered. Their abolition is demanded not only by the deaths and injuries which each succeeding year shows, but by a rapidly forming public sentiment. During the twelve months ending June 30, 1891, sixty-three persons were killed and ninety injured at grade crossings, and of these twenty-one were killed and twenty-four injured at crossings protected by gates or flagmen. The table of accidents, presented upon another page, is only for the nine months ending June 30, 1892, a change in the railroad year necessitating the short table. The three-fourths of a year indicates an increase of these accidents, since in these nine months fifty-seven were killed and ninety-six injured, and of these twelve were killed and twenty-six injured at crossings protected by gates or flagmen. This increase is to be attributed to the greater number of trains, especially of fast trains, demanded by the exigencies of traffic. None will contend that grade crossings are not an evil. In the past a disposition has been manifested to regard them as necessary evils. Indeed, the Board in its endeavors to do away with dangerous crossings, has met with opposition from communities. These cases were isolated, however. The numerous complaints against grade crossings which have come before the Board are proof of the disfavor in which they are held by the general public. The problem thus presented to your honorable body exists in other States. In some of them it has been solved to the satisfaction of the public. In considering this branch of the subject the same diffi-

culty in determining what proportion of expense should be borne by the parties in interest is encountered. There is a large number in the State, and the expense connected with the change from grade to under or over crossings would be great. To impose at once upon the interests involved the cost of the change of all, whatever proportion of expense should be borne by each, would be too great a burden. It therefore follows that these improvements should be brought about gradually. As to this expense the railroads stand in a position different from their relation to the question of new construction. Their line has been established with reference to the fact that grade crossings were sanctioned by law, and they have been in possession for many years. Another element enters into such a wholesale change—the traveling public, the safety of whose transportation would be materially increased. This element is of the State at large and is quite distinct from the people of the community in which a grade crossing may exist. The State is a party to the change and should bear its proportion of the expense.

This subject has received much consideration from the Board during past years, and the experiences of other States in their efforts to deal with the question have been carefully observed. The time has arrived to urge legislative action. A certain number of crossings should be selected each year for change, the more dangerous being chosen first; inasmuch as this duty of selection, and the determination of the nature of the new crossings, whether over or under, must be imposed upon some central power of the State, since it is clearly within the scope of its duties, the labor should be imposed upon the Board of Railroad Commissioners; the expense should be apportioned upon the three interests involved.

AUTOMATIC COUPLERS.

The question of automatic couplers on freight cars has engaged the attention of the Legislature in past years. Within the last two years the question has also been considered in the Congress of the United States, as a direct result of the action of the convention of the railroad commissioners of the various States which meets annually at Washington.

In the discussion of this subject the point as to the utility, efficacy and advisability of automatic couplers has been passed. There is no disagreement. All concur as to their necessity as a means of protecting the lives and limbs of employes. So also has the point been passed at which the kind or type is discussed. Substantial agreement has been reached. The vertical plane or Master Car Builders' type, as it is known in railroad circles, has been adjudged by railroad experts to best serve the general purpose. Of this type there are many varieties, differing in detail, but conforming in contour lines so as to readily and securely couple with each other. The question now is simply within what time shall all freight cars be equipped with automatic couplers of the vertical plane type.

In the greater number of the States of the Union this question has been earnestly discussed, and several have arbitrarily set a date beyond which no freight cars should be used unless equipped with automatic couplers. The great obstruction to the accomplishment of the desired end, however, has come from those States in which there is neither railroad supervision nor statutory requirement, or which have arbitrarily prescribed a form of coupler not in line with the general movement. The want of harmonious action by all these States between which there are large exchanges of cars has impeded the progress of the movement.

A federal law, applying to all cars engaged in interstate commerce, would accomplish the desired end. Such a bill, conservative in its terms, not bearing harshly on any interest involved, is now under consideration by Congress, and it is to be hoped will become a law during the present session.

The Board believes that the policy to be pursued by your honorable body will place your action in line with this federal legislation. So believing, it has prepared a measure which it will submit at the proper time. This bill provides that, on and after the 1st day of November, 1898, all freight cars moved in this State shall be equipped with automatic couplers of the Master Car Builders' type. In order that unforeseen contingencies may be provided for, the power is given to the Board of Railroad Commissioners to extend the time one or two years in individual cases, on cause being shown.

AUTOMATIC BRAKES FOR FREIGHT CARS.

The successful application of automatic air brakes to passenger cars, operated from the locomotive, has demonstrated their expediency and efficacy. They can be applied to freight cars with equally beneficial results. The danger to trainmen while setting or releasing brakes, in moving over the tops of cars on dark nights and in stormy weather, when snow, or rain, or sleet makes the tops of the cars slippery, will be reduced to a minimum by the use of automatic brakes, to say nothing of the protection from the hardships incident to the life of a brakeman. The number who are injured or killed by low bridges or overhead constructions would also be greatly reduced. A substantial percentage of all cars should be equipped each year until the whole number is so equipped. The Board respectfully recommends such legislation to your honorable body.

DRAWBRIDGES ON THE HUDSON.

The Board would direct the attention of the Legislature to the drawbridges on the line of the New York Central and Hudson River railroad, between Albany and Spuyten Duyvil. Many of these are over inlets and creeks — five in all. Whatever value as arms of the river these inlets or creeks once possessed has been lost. Few, if any of them, are navigable for other than pleasure vessels of the smaller class. They play little or no part in the transportation or commerce of the State. On the other hand the drawbridges, made necessary so long as the waters they cross are declared navigable waters, are a menace to the lives of the hundreds of employes of the road and the tens of thousands of passengers transported yearly over the line. The watchfulness and care of one man, or at best of two men, stand between disaster and security at each of these openings. But a short time ago the lives of two efficient employes of the road were sacrificed to the passage of a small steam yacht. The danger from these drawbridges is out of all proportion to the benefits accruing from their maintenance. The Board respectfully suggests that Congress be memorialized by resolution to declare the waters of such inlets and creeks no longer navigable. When this is done the Legislature by enactment can compel the abandonment of these dangerous drawbridges.

TRESPASSERS.

In close relation to the subject of safety stands the question of trespassers. The number of persons killed and injured while trespassing upon the lines of the State is large. The statutes make such trespassing a misdemeanor, but these laws are not enforced. By common consent magistrates discharge nearly all such offenders upon arraignment. Could the laws be made more rigorous, and the discretion of the magistrate be narrowed, the result would be a gain in the lessening of accidents resulting in death or in the crippling of men, so that from supporters of families they become burdens to be maintained by public charity.

LIGHTING CARS BY GAS.

Success has attended the effort to light passenger cars by gas. Last year the Board set on foot inquiries as to the practicability and safety of the various systems in use, and the answers were assuring in both respects. Indeed so practical, and so successful are the systems, and so widely have they been adopted, that a car on one of the first-class or limited trains lighted by oil would, be regarded as a relic of a past age. A sufficient reason why every passenger car, whether a palace car or ordinary coach, should not be lighted by gas, can not be given. Economy should not be the prevailing consideration. Aside from the increased security from fire, the annoyance of dripping oil from the lamps is avoided. The lighting of all passenger cars by gas is in line with the progress which has led to heating by steam instead of by stoves, and which is leading to automatic couplers instead of the link and pin, coupled by hand, and automatic brakes set from the engine rather than by men on the tops of cars at the risk of their lives. The prohibition of the use of oil by legislative enactment is desirable.

STRENGTHENING COACHES.

After nearly ten years of investigation into all accidents occurring on the railroads in this State, one fact is pressed upon the attention of the Board. In collisions, in overturning of cars by broken rails or by whatever cause, it is found, without variation, that the drawing-room and sleeping cars sustain far less damage

than the ordinary day coach. This immunity is directly the result of difference of construction. The coach is of too light a construction for safety, and there should be an improvement in this respect. The passenger in a coach is entitled to the same safety, if not the same luxury, as the one who occupies a seat in a palace car. It is further noted as a result of investigations of accidents that solid or vestibuled trains sustain greater shocks with less damage than a train made up of open-platform cars, while dangerous the telescoping of cars is almost if not wholly avoided. Before this can be proved to a certainty the accumulation of testimony over a space of a few years may be requisite. But if it is demonstrated, as seems probable, it will be a serious fact for railroad managers to confront. All expense which secures in whatever degree the safety of the passengers and employes is justified, while economy at the expense of safety must be condemned.

GUARD RAILS AND FROGS.

An examination of the table of accidents shows that four persons have been killed and six injured by having a foot accidentally fastened in the narrow spaces between guard rails, or of the frogs. This danger could be obviated by the proper blocking of these spaces. There has been a divided belief as to the efficacy of blocking. Some expert railroad men have contended that equal danger was likely to result by such practice. Observations continued over a number of years, however, lead to the belief that such danger is more fancied than real; that the danger from those not blocked is, upon the contrary, very real. Especially is this true of those inexperienced in crossing tracks, who are not on guard against an accident which, when it occurs, results in almost certain death. The opinion of practical railroad men is largely in favor of blocking guard rails and frogs.

ACCIDENTS.

The railroad year has been changed by legislative enactment to end on June thirtieth of each year, rather than on September thirtieth. Until this year no attempt has been made by the Board to bring the accident year into harmony with the railroad year. That it should be contemporaneous, however, is

obvious. The attempt to make it so in this year results in the presentation of a table for nine months instead of for the year. This period, nine months ending June 30, 1892, is compared with the twelve months ending June 30, 1891. It is not satisfactory, and its results are but approximations. It is unavoidable, however, in effecting the change.

The record for these nine months indicates an increase. In view of the means adopted, precautions taken and new appliances employed, seeking a diminution, the result, judged superficially, would be discouraging. It is not believed, however, that such increase is due to laxity of discipline or carelessness of operation, greater than in former years, but rather to the increase in the number of trains operated, of passengers carried and of men employed. It is believed that if a computation could be made it would be found that the percentage of accidents is indeed smaller. The number killed during the nine months ending June 30, 1892, was 480, and injured 1,432. The proportion, if carried out, would show a decrease in deaths of eighty and an increase in injuries of 181.

The following table gives the record of the accidents classified, first, as to their causes, and, second, as to whether beyond the control of the injured or killed, or in consequence of their own misconduct or want of caution :

TABLE OF ACCIDENTS reported to the Board of Railroad Commissioners, classified as to cause, for the months ending June 30, 1892, and year ending September 30, 1891.

CAUSE OF ACCIDENT.	PASSENGERS.						EMPLOYERS.						OTHERS.				TOTAL.			
	1892.		1891.		1892.		1891.		1892.		1891.		1892.		1891.		1892.		1891.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fall from train, engine or car.	2	10	3	18	27	143	49	107	10	19	14	25	39	172	76	150				
Getting on or off trains in motion.	6	25	11	88	6	23	40	11	1	14	60	32	27	24	8	201				
Striking low bridges, switches, tunnels, etc.																46				
PASSENGERS putting head or arms out of windows, or missiles thrown in windows.		2		9												2				
Coupling or uncoupling cars.					19	525	18	648								19				
Wrecking cars.					90	78	116	86								238				
Crossing track at highway.	1	4	1		1	1	1	4								131				
Protected with gates or flagmen.																2				
Not protected with gates or flagmen.																301				
Catching foot in frog or between rails.																24				
Derrailment by misplaced switch.					4	6	5	13								45				
Derrailment by broken rail.	1															6				
Derrailment by broken axle.	11			2	2	2	1	5								2				
Derrailment by broken wheel.																14				
Derrailment by defective track.					1	4	1	1								1				
Derrailment by obstruction on track.	1															1				
Derrailment from unknown causes.	17			2	5	12	2	18								5				
Collisions, butting, by mistake, or neglect of orders or signals.				3	29	4	1	41								4				
Collisions, butting with a hand car.																7				
Collisions, butting by causes unexplained.																1				
Collisions, rear, by misplaced switch.	4			18	41	14	43	10								4				
Collisions, rear, by mistake or neglect of orders or signals.	13	30	12	81	18	41	14	43								31				
Collisions, rear, by mistake of trainmen.				3	4	1	9	6								3				
Collisions, rear, from running into trains.				1												3				
Collisions at grade crossings of railroads.																3				
Failure of bridge, cattle-guard or trestle.																7				
Locomotive explosions.				4	7	4	3	6								5				
Other train accidents.				8	5	72	19	96								84				
Other causes.				6	4	5	48	81								6				
Casualties, not caused by trains, engines or cars.				1	1	3	5	5								4				
	21	118	83	141	206	1,081	278	1,222	263	268	409	365	490	1,432	720	1,728				
From causes beyond their own control.	18	77	15	78	27	69	38	108	2	8	1	8	49	184	49	181				
By their own misconduct or inattention.		84	17	52	146	842	208	1,022	226	262	374	318	390	1,128	600	1,384				
Reported as caused by intoxication.	2	7	1	14	31	118	35	91	16	16	27	10	38	118	26	53				
Indeterminable as to want of caution or otherwise.									9	7	7	10	40	126	42	101				
	21	118	88	141	206	1,081	278	1,222	263	268	409	365	490	1,432	720	1,728				

During these nine months twenty-one passengers were killed, as against thirty-three during the previous twelve months. Of these twenty-one, thirteen were killed at the deplorable accident at Hastings, on the New York Central, on December 24, 1891. These thirteen were all that were killed from causes beyond their control. Of the remaining eight, six were killed when getting off trains in motion and two from falling from the train.

There were 118 passengers injured, and of these seventy-seven were injured from causes beyond their control as follows: Five at the Hastings accident referred to above; eight at Fishkill (New York Central), in collision, December 2, 1891; eleven in derailment at Mott Haven (New York Central), December 2, 1891; five in collision at Tarrytown (New York Central), December 1, 1891; four in collision at Poughkeepsie (New York Central), June 29, 1892; three in collision at Philmont (New York and Harlem), June 29, 1892; and seventeen west of Adrian (New York, Lake Erie and Western), November 11, 1891.

The facts and circumstances attending these accidents were made the subjects of special investigation by the Board, and its findings will appear under the head of accidents in the appendix.

Two hundred and six employes were killed, 1,031 injured, during these nine months, and, as compared with the 278 killed and 1,222 injured during the previous twelve months, would indicate a material increase. The most frequent of all causes of injuries seems to be the coupling and uncoupling of cars — 525, and in addition nineteen were killed from this cause. Year after year the same story is told. In 1891, for twelve months, the number injured was 648, killed eighteen; in 1890, 497 injured, killed twenty-five; in 1889, 364 injured, killed twenty-seven; in 1888, 480 injured, killed twenty-six, and so the lamentable story continues. In five years 2,514 injured and 117 killed.

The general adoption of the automatic coupler, which is recommended in another part of this report, would reduce the number of these accidents to a minimum.

Another cause of frequent injury is falling from train, engine or car — twenty-seven killed and 143 injured. The carelessness which often accompanies too intimate an acquaintance with danger has contributed to these accidents, but a greater

proportion no doubt resulted from the necessity of being on the top of cars to set and release brakes. The universal adoption of automatic air brakes, also hereinbefore recommended to your attention, would largely reduce these accidents.

Ninety were killed and seventy-eight injured from "walking or being on track." It must be concluded that these accidents are largely due to lack of proper caution upon the part of employes. The exigencies of their labor lead them to the place of danger on the line. But there are constantly men on the track who have at the time no duty there. It is difficult to see how these accidents can be guarded against, unless by the enforcement of a rigid discipline forbidding those who have no duties to perform from being on the track.

Walking or being on the track is also the most frequent cause of death and injury to others than employes and passengers. For the most part they are actual trespassers, there in violation of law. Of these 168 were killed and eighty injured. This subject is discussed elsewhere in this report, page .

The reports upon the accidents investigated and the results of the inquiries made into all accidents will be found in the appendix, page .

Beyond the subjects which have been discussed in this report, and upon which legislation is recommended, the accident record does not suggest further action upon the part of your honorable body.

Since the making of the last annual report the New York Central and Hudson River Railroad Company has been diligently extending the block system. A large portion of the road is now under its operation. Before many days the system will be completed over the entire line from New York to Buffalo. By this means it is hoped to entirely avoid rear collisions, or if not, then to reduce the number to a minimum. However, it is not wise to place too great reliance upon the system. On other through lines, absolute exemption from such accidents has not resulted from its adoption. Indeed, in a comparison made between two roads, one operated under the open and the other under the block system, the distance and time being

the same, with more trains run on the open than on the blocked road, it was found there were more rear collisions in the same space of time on the road under the block than on that using the open system. Mechanical appliances get out of order. Where mechanism is employed, the inevitable tendency is to rely upon it and to relax watchfulness. If the adoption of the block system in this State is to result in any lessening of care upon the part of the employes the public may have reason to regret the substitution of mechanical for human agency.

PHYSICAL CONDITION OF RAILROADS.

The Board is pleased to report that in the physical condition of the railroads the same progress toward excellence and ultimate perfection is as manifest during the past year as during the previous ones. The improvement has been steadily forward, never halting for nine years, until the condition at the close of the year 1892 is superior to anything known in the history of railroads in this State. A close inspection of roadbeds, superstructures, rails, ties, openings, viaducts, etc., is made under the supervision of the Board. The results of such inspections are transmitted to the railroad companies. Where defects are found, they are specially pointed out to the company and a remedy is recommended. It is due to the companies to say, and as testimony to their desire to maintain their ways properly, that not an instance is known where a company has failed to act upon such recommendation.

The reports of such inspections will be found in the appendix, page . They are not so complete as usual for reasons there explained.

THE EMPIRE STATE EXPRESS.

In November of 1891 the New York Central and Hudson River Railroad Company placed on its road, to run over its entire length, a train which since that time has become famous as the fastest regular train in the world. It was put on for the purpose of relieving the pressure on the limited trains to and from the west. The demand for accommodation on the fast trains, within the borders of the State, greatly interfered with the through traffic.

The problem of relieving this pressure was solved by putting on a train which should accommodate the New York travel alone; and, in order to attract this State travel to it, a much faster rate of speed was established, with such hours of departure and arrival at the *termini* as would best serve the purposes of the passengers. The experiment, which is no longer an experiment, was attended with success. Not alone did it accomplish the purpose desired, but it developed a traffic of its own, until the record shows it is the best paying train on the road, making an average earning of two dollars and sixty cents per mile. Notwithstanding the high rate of speed demanded by its schedule, the train has made it with remarkable regularity. The record shows that it has been delayed only on an average once a month, while the delays have been due to causes apart from its own operation.

Notable as these facts may be they would hardly have place here were there not other considerations of deep significance in this successful experiment. Five years ago this train would have been an impossibility. The Empire State train is the result of the progress made in all the branches of what is embraced in the term "railroading"—of the developments in way construction; in ties, rails and ballast; of the increase in the strength of bridges and viaducts; of the advances in motor construction; of the improvements made in safety appliances. It is the expression of the high degree attained in the physical side of railroads.

Inquiry naturally turns to the effect the high speed at which it runs has upon the superstructure, for in the answer to this is found the practicability of such fast trains and the promise of a still higher rate of speed. No matter what the receipts of such a train may be, if the effect of its running is to deteriorate the superstructure, largely increasing the cost of renewals, or to render travel less safe, the train would be too expensive and, therefore, impracticable.

A year's experience shows that these high-speed trains are very destructive of superstructures not built originally to resist

them. The tentative efforts put forward six or seven years ago to run heavy trains at high speed disclosed that the effect was that of a blow delivered suddenly and released as suddenly. This was felt upon the metallic bridges of that day, and especially was it shown in its effect on the rail joints and rails. The demand for speedier transportation being apparent, effort was made to meet the conditions impending. The bridges were strengthened; heavier steel rails were laid; greater perfection and strength in the joints were attained; more attention was paid to ballasting and alignment to keep joints up to a level. These improvements were made over a period of five years, until the work has been completed. As time went on speedier trains were put on. The limited trains became permanent. At last the Empire State train, with a schedule rate of fifty-two and one-half miles an hour, stops included, but which, in running, often reaches a rate of sixty five miles, became a fixed fact. The effect is now more apparent upon masonry than upon other structures. The metallic structures receive the blow and deliver it upon the masonry. Hence the work of strengthening the substructures along the whole line has been begun. The high-speed trains are the result of the advances made in motor construction; they in turn demand a higher degree of excellence in superstructure. The superstructure is to-day able to withstand the effect of the impact of trains of still higher velocity, so that it is now challenging motor construction to further effort.

The necessity of maintaining the roadbed, rails, joints, bridge superstructures and substructures in the highest possible strength and perfection, follows this changed condition not only as a matter of safety, but as a matter of economy. Without such effort deterioration would result. That such deterioration is not apparent, the inspections conducted by this Board clearly determine; and in this is the demonstration that the necessary condition of strength and perfection is maintained.

While changed conditions have resulted in an increased cost of maintenance, it is clearly shown that the increase of receipts has more than kept pace with the increased cost. Therefore the

high-speed trains are practicable. They pay the road to run them; they accommodate the public in a marked degree.

The Empire State train is the high mark in the progress of railroad development, and in its success is the promise of still greater achievement.

On the five miles of the New York Central and Hudson River Railroad, between Forty-second street and Mott Haven stations in the city of New York, a steel rail weighing 100 pounds to the lineal yard has been laid. This rail is much heavier than has ever been laid in this country. After ten months use of it the results are so satisfactory as to justify its extension to the passenger tracks of the main line. Observation shows that in resisting the impact of the high-speed trains it suffers less wear and tear at the joints. By such extension and the consequent improvement to roadbed there would be a marked saving to rolling stock.

REFERENCES, COMPLAINTS AND APPLICATIONS.

During the past year the Board has considered and disposed of various references by the Governor, the Legislature and committees thereof, and numerous complaints by cities, towns, associations and individuals. The determinations in these matters are to be found in the Appendix, pages 37 to 68, inclusive, to which reference is made for a full exposition thereof. Within recent years the duties of the Board have been largely increased by various acts of the Legislature, involving the changes of motive power upon street railroads, the approval, or withholding thereof, of interlocking signal and other devices, of changes of grades, of the extension and building of new roads, approval of contracts between parallel and competing roads, etc. Reference is made to the Appendix, pages 69 to 104, where the action of the Board in these matters may be found.

CHANGES OF MOTIVE POWER.

A revolution in the method of moving street cars has taken place within a very few years. A street railroad on which horses are used to draw the cars has become almost as much of a rarity as one where the motive power is mules or oxen. The means of

propulsion generally adopted is that of the electrical overhead-trolley system. In fact, with the exception of the city of New York, the electric system is universally chosen. This system has found an entrance into the upper part of that city, but, in the main, such roads there as have proposed a change of motive power, or obtained the consent of the Board to such a change, have adopted the cable system. In Brooklyn, the cars of nearly all the lines are still moved by horses, but the consents to a change to the electrical-trolley system have been obtained, and preparations for the change are well advanced. In New York the expense of the cable system and the active public sentiment against the use of trolley wires in that city — a sentiment which does not prevail elsewhere — cause the continuance of horses as the moving power.

All of which is respectfully submitted.

SAMUEL A. BEARDSLEY,

MICHAEL RICKARD,

ALFRED C. CHAPIN,

Commissioners.

APPENDIX.

Decisions and recommendations:

- Executive and legislative references.
- Complaints of cities, towns, etc.
- Applications for change of motive power.
- Applications for increase of capital stock.
- Applications to suspend operations of road.
- Applications for railroad construction and extension.
- Various applications by railroad companies.
- Inquiries.
- Accidents.
- Accident inquiries.

Length of railroads.

Inspections.

Minutes of Board.

Companies formed.

Companies reorganized.

Companies consolidated.

Increase of capital stock.

Reduction of capital stock.

Extension of routes.

Increase of capital stock.

Surrender of capital stock.

Abandonment of part of routes.

Leased roads.

Amended articles of association.

Change of name.

Enactments of year.

Alphabetical list of all companies formed under laws of this State.

"Condemnation Law."

"General Corporation Law."

"Stock Corporation Law."

"Railroad Law."

General acts relating to railroads, not embraced in the above laws.

Extracts from Code of Criminal Procedure.

Extracts from Penal Code.

Rapid Transit Act (Laws of 1891).

Interstate Commerce Act.

DECISIONS AND RECOMMENDATIONS.

EXECUTIVE AND LEGISLATIVE REFERENCES.

I.

REPORT OF THE BOARD ON THE ASSEMBLY BILL (PRINTED 'No. 668)
ENTITLED "AN ACT TO AMEND CHAPTER 4 OF THE LAWS OF 1891
ENTITLED 'AN ACT TO PROVIDE FOR RAPID TRANSIT RAILWAYS IN
CITIES HAVING OVER 1,000,000 INHABITANTS.'"

March 2, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 668) entitled "An act to amend chapter 4 of the Laws of 1891 entitled 'An act to provide for rapid transit railways in cities having over one million inhabitants,'" passed January 31, 1891.

This bill adds section 38 to the rapid transit act of 1891, which, by the provisions of section 1, applies only to cities of over one million inhabitants.

It would seem from the wording of the proposed section 38 that it might be intended to affect elevated railroads in the city of Brooklyn, but since it is amendatory of the act of 1891, applying only to New York city it can not be presumed to apply to the city of Brooklyn.

The bill authorizes the board of directors of any company incorporated by any special act of the Legislature for the purpose of constructing, maintaining or operating a bridge across the East river and by the act of incorporation of which authority shall have been conferred or intended to be conferred to construct, maintain or operate as a part of or in connection with its bridge, an approach or approaches thereto extending generally in an easterly and westerly direction, to, in lieu of constructing such approach or approaches, build, maintain and operate an elevated railway, the route of which shall be coincident with the route of such approach or approaches.

The bill confers upon this board of directors the power to adopt the general plan for the construction thereof, which plan shall show the general mode of operation and the manner of construction, the extent to which any street, avenue or other public place is to be encroached upon, and the property abutting thereon affected, a copy of which plan shall be transmitted to the common council or the local authorities for their approval, instead of being adopted and transmitted by the commissioners created by the rapid transit act.

The provisions of the bill are so worded as seemingly not to raise any question as to the constitutional provision requiring the consent of

a majority in value of the abutting property owners or in lieu thereof an order of the Supreme Court before beginning the construction of the road.

The rate of fare to be charged is limited to five cents, and this includes free passage over the bridge. This would seem to be in the interest of the traveling public.

The change in the law in regard to exempting this proposed road from the provisions of section 7 of the act amended, which requires the sale at auction of a franchise, is the marked feature of the bill, and the one which seems to invite criticism. It is impossible to regard this act without its relation to the one now in our hands, to which this is supplementary.

The argument in favor of exempting this road from compensating the city for its franchise, as required when sold at auction, is, that it would, taken in connection with the bridge to which it is an approach, and with which its receipts are supposed to be merged, show a large deficiency in its maintenance and operation.

The report of the present bridge over the East river discloses the fact that notwithstanding the receipts have increased from year to year, the last year's operation showed a deficit of \$555,000. It is urged, therefore, that this company should not be required to bear additional burdens while greatly benefiting the public by the operation of the road and bridge at a loss to itself for some years.

Whether this is a proper reason why this road should be exempt from the provisions as above referred to, is a question to which the Board has given careful consideration. The Board is not disposed to abandon the general principle established by section 7 of the rapid transit act, which requires compensation for such franchises, but it can see that there may be exceptions operating to the benefit of the public. Were this argument to control, it would appear that this act could receive the Executive sanction without detriment to public interests. Were provision made by further legislation that at such time in the future as it should appear that the company was earning a sum largely in excess of the operation and maintenance the Legislature or common council could determine how much of such excess should be yearly paid into the municipal treasury, the Board would feel that the interests of the public were fairly protected.

By the Board.

II.

REPORT OF THE BOARD ON THE ASSEMBLY BILL (PRINTED NOS. 84, 888) ENTITLED "AN ACT TO PROVIDE AND LIMIT THE HOURS OF SERVICE ON RAILROADS."

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed Nos. 84, 888) entitled "An act to provide and limit the hours of service on railroads."

In its first section this bill provides that no person or corporation operating a line of railroad of thirty miles in length or over shall permit

or require any conductor, engineer, fireman or trainman who has worked in any capacity for twenty-four hours, to again go on duty until he has had at least eight hours rest.

This section is to be highly commended. More than one accident is recorded as resulting from the failure of engineers to perform their duty, owing to having fallen asleep after many hours exceeding twenty-four of continuous labor. This Board in its examinations into the causes of accidents has more than once been called upon to severely censure the railroad company permitting such extended hours of service.

Section 2 provides that ten hours labor performed within twelve consecutive hours, shall constitute a day's labor in the operation of all steam surface and elevated railroads of the State, but also provides that this requirement shall not affect the mileage system now in operation or that may be hereafter placed in operation, or trips of regular scheduled trains when completed within a less number of hours; nor shall not apply to extra hours of labor performed as a result of unavoidable accident or delay caused by such accident.

Section 3 provides that in case of labor in excess of ten hours, such laborer shall receive compensation for such extra service in addition to his daily compensation.

Section 4 makes a violation of the act a misdemeanor with a fine on conviction, of five hundred dollars for each offense.

Your attention is called to the fact that this act provides for the possibility and probable necessity of more than ten hours labor, and therein differs from Senate bill, printed No. 553, commented upon in another reference (see p. 46). In the one he is not permitted to enter into a contract for more than ten hours labor; in this one under discussion, such contract, if the necessities require, can be made.

The Board deems that this is a just and discriminating bill, and in the interest of the traveling public and the railway employees as well as the railroad corporations.

By the Board.

III.

REPORT OF THE BOARD ON THE ASSEMBLY BILL (PRINTED NO. 1253)
ENTITLED "AN ACT TO AMEND CHAPTER 4 OF THE LAWS OF 1891,
ENTITLED 'AN ACT TO PROVIDE FOR RAPID TRANSIT RAILWAYS IN
CITIES OF OVER 1,000,000 INHABITANTS.'"

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No 1253) entitled "An act to amend chapter 4 of the Laws of 1891, entitled 'An act to provide for rapid transit railways in cities of over 1,000,000 inhabitants.'"

This bill applies only to the city of New York. Section 6 of chapter 4, Laws of 1891, is amended by adding to the section the following: "At any time before the sale provided for in the next section of this act, the Board of Rapid Transit Railroad Commissioners may abandon any portion of a route or routes laid out and determined by said Board."

Section 9 is amended by providing that all actions or special proceedings brought pursuant to the provisions of the act may, on the application of the Board of Rapid Transit Commissioners, have preference over any other business at a term or sitting of any court of the State, except the actions and proceedings enumerated in sections 789 and 790 of the Code of Civil Procedure; and also, all actions and special proceedings brought by or against any commission or corporation created by or acting under a power or privilege granted under the act.

Section 15 is amended so as to provide that no taxes shall be imposed upon that portion of any railway constructed under the act which is in process of construction and not in actual operation.

Section 24, subdivision 2, is amended so as to permit every corporation formed under the act to lease, as well as to purchase, hold and use such real estate and property as may be necessary.

Subdivision 3 is amended so as to permit them to cross, intersect, join and unite the railway or railways with any other railway, whether constructed before or after its construction.

Subdivision 5 is amended by dropping out the word "now" in its relation to any steam railway in actual operation, so that it shall apply not only to railways that are in operation at the time of the enactment of the bill but which may be in operation hereafter. And also by striking out the words "or the erection of piers or supports for any elevated railway upon a railway track actually in use in any street or avenue;" the effect of which is that the prohibition against the erection of piers or supports upon a railway track actually in use in any of the streets or avenues no longer exists.

As was pointed out above the bill applies only to New York city, and if it is desired or not opposed by the city authorities the Board sees no reason for opposition.

By the Board.

IV.

REPORT OF THE BOARD ON THE ASSEMBLY BILL (PRINTED NOS. 1117, 1424) ENTITLED "AN ACT TO AMEND CHAPTER 565, LAWS OF 1890, ENTITLED 'AN ACT IN RELATION TO RAILROADS, CONSTITUTING CHAPTER 20 OF THE GENERAL LAWS.'"

May 9, 1892.

To the Governor of the State of New York :

The Board herewith respectfully returns Assembly bill (printed Nos. 1117, 1424) entitled "An act to amend chapter 565 Laws of 1890, entitled 'An act in relation to railroads, constituting chapter 20 of the general laws.'"

The title of this bill is defective in that it should read, "constituting chapter 39," instead of "20 of the general laws." It is doubtful, however, whether the defect thus pointed out is fatal.

This bill seeks to amend section 16 of the general act, which is also amended in the bill known as the Revision Commission's bill. The bill under consideration amends the section by including corporations to be affected by it all those organized under chapter 140 of the Laws of 1850, and the acts amendatory thereof and supplementary thereto, thereby giving to the section a retroactive effect which evidently the

Revision Commission did not contemplate. It is further amended by expressly providing that nothing in the section shall apply to the county of Kings nor operate to revive any charter or franchise heretofore given in the city of Brooklyn. In all other respects the section is the same as it stands in chapter 565 of the Laws of 1890.

By the Board.

V.

REPORT OF THE BOARD ON THE ASSEMBLY BILL (PRINTED NOS. 55, 1342, 1451) ENTITLED "AN ACT RELATIVE TO RAILWAYS IN AND NEAR PUBLIC PARKS IN THE CITIES OF THE STATE OF NEW YORK."

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed Nos. 55, 1342, 1451) entitled "An act relative to railways in and near public parks in the cities of the State of New York."

This bill is practically an amendment of chapter 407 of the Laws of 1888, entitled "An act relative to railways in the transverse roads of the Central Park in the city of New York."

By the terms of the act it applies only to the city of New York. In brief its effect is to permit the roads built in the transverse ways of Central Park to be extended east and west from such depressed ways through contiguous streets to connect with roads already built and in operation or which may hereafter be built by companies now chartered and existing. The law of 1888 restricted the authorities in the city of New York to the mere matter of construction. Under the terms of this bill under discussion these powers are broadened to construction, equipment and operation.

Since the bill applies only to the city of New York, if the municipal authorities of that city do not oppose it, it is fair to assume that the bill is without objection upon the part of those whom it immediately concerns.

By the Board.

VI.

REPORT OF THE BOARD ON THE ASSEMBLY BILL, (PRINTED No. 1505) ENTITLED "AN ACT TO AMEND THE RAILROAD LAW."

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Assembly bill (printed No. 1505) entitled "An act to amend the Railroad Law," with the accompanying comments, which are made a part of this report:

Comments.

1. The first sentence of the bill repeals section 109 and sections 180 to 183 inclusive of chapter 565 of the Laws of 1890. The attention of the Executive is directed to the fact that sections 180 to 183 are the repealing sections of the old laws existing prior to the first of May, 1891. So far as the bill under consideration is concerned, there is no

further reference to this repeal, and while it may be possible that elsewhere this repealing provision is made, so far as the information is before this Board, it would appear as if the effect was to re-enact all of the old laws.

2. Section 2 is amended by the insertion of subdivision 11, providing that street surface railroads must in their articles of association state the names and description of the streets, avenues and highways in which the road is to be constructed. Also by amending subdivision 12 by providing that the certificates of rapid transit railways must contain the statements required by article 5 of the Railroad Law. And subdivision 13 is amended by providing that in the case of a corporation specified in article 5 of the law, which is that which relates to rapid transit railways, the affidavit of the directors shall show that the full amount of capital stock has been in good faith subscribed and that to the certificate of incorporation shall be annexed the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate. All of which amendments seem to be proper and to serve a good purpose.

3. Subdivision 10 of section 4 is a new provision. It is as follows: "From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad and to issue and dispose of its bonds for any amount so borrowed and to mortgage its corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid." This provision is a reversal of the policy of the State as it has obtained for the past ten or fifteen years. Prior to the enactment of the law of 1890, no railroad corporation could mortgage its property and issue bonds except upon the consent of two-thirds of the stockholders. This was accomplished by chapter 724 of the Laws of 1887, and was the result of several years of agitation to that end. The tendency to restrict the powers of the directors of railroads in this way was shown in 1881, when a law was passed making the consent of two-thirds of the stockholders necessary to an increase of capital stock. In 1890 while the method of borrowing money was changed to a certain degree, yet the principle was retained in the provision that no mortgage should be issued without the written consent, duly acknowledged of the stockholders owning at least two-thirds of the stock. When this subdivision is read, in its relation to the first sentence of section 4, to wit: "Subject to the limitations and requirements of this chapter, every railroad corporation in addition to the powers given by the general and stock corporation laws, shall have power," it will be perceived that the policy which has obtained since 1881 at least has been abandoned, and the restrictions placed upon the directors cast away. The board understands that this amendment did not emanate from the Revision Commission.

4. Section 6, in the first instance, is amended by excepting street surface railroad corporations and elevated railway corporations from the provision requiring railroad corporations before constructing any part of their road, to file maps and profiles. It is a very proper amendment. It is further amended by providing that all other corporations shall transmit to the Board of Railroad Commissioners certain described maps, profiles and drawings exhibiting the characteristics of their road. This also is a proper amendment.

5. Section 7 is amended in order to correct certain typographical errors. This is true as to section 12.

6. Section 13, which treats of change of route, grade or terminus, was confined to domestic railroad corporations, and by dropping the word "domestic" now applies to all railway corporations operating roads in this State, whether organized under its laws or the laws of other States. It is further amended by excepting elevated railway corporations from its provisions. These also are proper amendments.

7. Section 16, as it stands in the bill, is identically the section as it exists in the law of 1890, without any amendment whatsoever.

8. Sections 17 and 19 are amended only to correct typographical errors.

9. Section 21 is not new legislation, nor is it indeed an amendment to existing law. It existed heretofore, as chapter 416 of the Laws of 1890, and is now made a part of the general law.

10. Section 32, relating to fences, farm crossings and cattle-guards, is amended so that now a railroad corporation shall, as soon as it has acquired the right of way for its roadway, erect fences, sufficient to prevent cattle, horses, sheep and hogs from passing through; protects farm crossings with gates whenever and wherever reasonably necessary; prohibits the use of barbed wire in such fences; and provides that when railroads shall cross timbered or forest lands sufficient crossings shall be constructed and maintained to enable the owners of said lands to transport logs, timber and lumber for manufacture or sale or for banking on any stream to be floated or driven down the same; and in case of any neglect or dispute, the Supreme Court may by mandamus or other appropriate proceeding compel the same and also fix the point or location of any such crossing. These would appear to be proper amendments.

11. Section 33, relating to signboards, flagmen at crossings and the rate of speed to be maintained is amended by permitting trains to pass protected crossings at forty miles an hour, rather than thirty. If thirty was allowed at a protected crossing there is no reason why forty should not be.

12. Section 34, which relates to the starting of trains, to preferences, and to stations, is amended, first, by the provision that no station established shall be discontinued without the consent of the Board of Railroad Commissioners. This is an excellent amendment, as the numerous complaints on file in this office of the inconvenience arising from the arbitrary action of railroad corporations, will amply attest. The section is further amended by substituting the sentence "no preference for the transaction of the business of a common carrier upon its cars or in its depots or buildings or upon its grounds shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others," for the sentence, "no preference for the transaction of business upon its cars or in its depots," etc. The effect of this amendment is to utterly destroy the intention of the law as it originally stood, since the preferences which the railroad corporations may not show is now limited to common carriers only, and in fact enlarges the control of the corporation.

13. Section 37, relating to rates of fare is amended by providing that each passenger may carry baggage without extra charge to the amount of 150 pounds. This is a very proper amendment.

14. Section 41, relating to sleeping and parlor cars. In the law of 1890, this section provided that each passenger occupying a berth on a sleeping car should be charged forty cents for 100 miles, and three mills for every additional mile, but in no case should the charge exceed eighty cents. In the bill under consideration this is amended so that the limitation of eighty cents is stricken out and such companies are permitted to charge a reasonable compensation for such extra accommodation in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. The law limiting the charge to eighty cents has been a dead letter for many years.

15. Section 43, providing that conductors and employes must wear badges. This section has been amended so that the prohibition against the exercise of any of the powers of his employment without a badge upon his hat or cap indicating his office or employment, shall be limited to the conductor or collector, as it was prior to the enactment of 1890. This is a very proper amendment.

16. Section 44, relating to checks for baggage. This section has been amended so that upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, a passenger holding a check may have his baggage delivered to him at any regular intermediate stopping-place, short of the one to which his baggage was to be transported. This a very proper amendment.

17. Section 46, relating to unclaimed freight and baggage. This section is amended by providing if the name and residence of the owner of any unclaimed property is known to or can be ascertained by the corporation, it shall serve a copy of the notice of the intent to sell the same at public auction upon such owner by mail, in addition to the other notices provided in the section. This is a very proper amendment.

18. Section 48, relative to rights and liabilities of common carriers. This section in the law of 1890, after declaring every railroad corporation doing business in this State, to be a common carrier, provided "any one of two or more corporations owning or operating connecting roads within this State, or partly within and partly without the State, shall be liable as common carriers, for the transportation of passengers or delivery of freight received by it to be transported to any place on the line of a connecting road." This has been amended by inserting after the word "transported" the words "by it," thus limiting its liability to its own carriage.

19. Section 53, relative to riding on platform and walking along track. This section is amended by adding to it the following: "Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences or guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the State the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved." This is a re-enactment of section 44 of chapter 140 of the Laws of 1850, and is proper.

20. Section 54, permitting corporations to establish ferries. Previous to amendment this section only permitted a steam railway corporation to operate a ferry over the waters of the harbor of New York to any

point distant not more than ten miles. It is now amended so as to strike out the restriction as to the distance. There would seem to be no objection to this amendment.

21. Section 56, relating to the carriage of mails. This section is amended by appending a penalty of \$100 for every day of neglect of or refusal to comply with the provisions of the section. This is a re-enactment of the provisions of chapter 275, Laws of 1846, and is proper.

22. Section 57, relating to the annual reports to be made by corporations. In the law of 1890 inadvertently was enacted the old form of the law requiring reports to be made for the fiscal year ending September thirtieth. The rules of this Board as well as chapter 98 of the Laws of 1890, provided that the fiscal year should end June thirtieth. As the section now stands it is entirely proper.

23. Section 59 is an entirely new section. It provides that no railroad corporation hereafter formed shall exercise the powers conferred by law upon such corporations until the Board of Railroad Commissioners shall have certified that the conditions prescribed have been complied with, and that public convenience and necessity require the construction of said railroad, as proposed in said articles of association. If the Board of Railroad Commissioners shall refuse to grant such certificate, the directors of the company may present the fact to a General Term of the Supreme Court and said General Term shall have power in its discretion to order said Board for reasons stated to issue said certificate. This is a provision of law that has been urged upon the Legislature by this Board since its institution in 1888. The arguments that the Board have made in support of this measure are to be found on pages 64 and 65 of the first volume of the report for 1883, on page xxix of the report for 1884, and on page xxix of the report for 1885, and on page xxi of the report for 1886, page xxx in the report for 1887, page xxix of the report for 1888, page xxiv in the report for 1889, with a reference on page xx of the report for 1890, and a recommendation for its enactment on page xxvii of the report for 1891.

24. Section 70. This section, in the form finally given it, confers general powers of consolidation upon corporations, whether railroad corporations or otherwise, whether organized under the laws of this State or otherwise, if such corporations own or operate a railroad, a bridge, or a tunnel, wholly within or partly within this State, or have lines or routes of road which have been located but not constructed (no limitation being expressed as to whether such lines or routes of road shall be within or without the State). These powers are vague and extraordinary; they are absolutely at variance with the legislative policy of the past twenty years. In general that policy has tended to restrict such powers; this section as it now reads would apparently reverse a vast amount that has been gradually accomplished. It should, in the opinion of the Board, be considered in connection with subdivision 10 of section 4, upon which comments have already been submitted. The broad and flexible powers conferred in section 70, if supplemented by the debt-creating ability set forth in subdivision 10 of section 4, may easily prepare the way for transactions such as have been condemned and prohibited in the past.

25. Section 71, relating to the conditions of a consolidation of two or more roads. Subdivision 2 of this section is amended by providing that if the stockholders owning two-thirds of all the stock of each of the corporations proposing to consolidate shall, by a consent in writing, acknowledged as are deeds entitled to be recorded, and endorsed upon said lease or agreement, signify their assent to such consolidation, it shall be deemed and taken as the adoption of such agreement; but if such agreement shall not be assented to in writing by the holders of two-thirds of the stock of each of such corporations, then such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof, called separately for the purpose of taking the same into consideration. There would seem to be no objection to this amendment. The subdivision is further amended by providing that the holders of stock may vote by proxy, and by striking out the provision that street railroads shall not be consolidated under the provisions of this article. Since there is no provision under article 4 for the leasing or consolidation of street surface railroads, and no reason exists why such roads should not consolidate, there seems to be no objection to this amendment.

26. Section 78, relating to leases of road, is amended by including "any corporation owning or operating any railroad or railroad route within this State." There are certain corporations which are not railroad corporations, which nevertheless are operating railroads in the State, an instance of which is the Delaware and Hudson Canal Company. There seems to be no reason why the privilege of leasing the road or any part of it should not be enjoyed by them as well as by a strictly railroad corporation. The section is further amended by providing that all such contracts shall be recorded in the office of the clerk or register of each county through or into which the road to be used shall run, and by providing that the section shall not apply to any lease in existence prior to May 1, 1891. No objection can be urged to this amendment.

27. Section 80, prohibiting the consolidation and lease of parallel lines. This section is amended so as to except street surface railroad corporations, and further to permit such lease or consolidation when consented to by the Board of Railroad Commissioners. The conditions as to street surface railroads are not the same as surrounding steam roads, and what may be improper in one would not be in the other. The exception, therefore, of street surface roads seems to be proper. Flexibility is given to the section by vesting the power to consent to such consolidation or lease in the Board of Railroad Commissioners, where an exceptional case may occur.

28. Section 90, relating to street surface railroads, is amended by providing that a street surface railroad corporation may file in each of the offices in which its certificates of incorporation are filed, a statement of the names, and description of the streets, roads and highways in which it is proposed to extend its road, and upon filing such statement, it shall have the same power and privileges in the streets, roads and highways on which it extends as it acquired by its incorporation in the streets, roads and highways in which its road is maintained. This would seem to be a proper amendment.

29. Section 91, relating to the consent of property owners and local authorities. This section is amended principally by substituting the word "local" for "municipal," so as to conform to section 18, article 3 of the constitution, and by making more explicit the provision that where a railroad runs through a street or alley bounded on one side by a public square or park, the consent of one-half of the property owners on the other side of such street or avenue, and opposite to such square or park shall also be first obtained. No objection can be urged against these amendments.

30. Section 92, relating to the consent of local authorities. The amendment seeks to provide for the proper publication of the notices of the hearings upon applications for the consent of the local authorities. No objection can be offered against them.

31. Section 93, relating to the sale of franchises at public auction. This section, under its terms, applies only to the city of New York. It is identical, or nearly so, with section 1 of chapter 306 of the Laws of 1892. Such variations are in the nature of greater restrictions and, indeed, are unimportant. In view of the fact that it is already law, comment is unnecessary.

32. Section 94, relative to proceedings if property owners do not consent. This section is amended only in the particular that the determination of the commissioners appointed shall not become effective until confirmed by the court. There can be no objection to this.

33. Section 95, relating to percentage of gross receipts to be paid in cities and villages. This section has been amended so that in effect it applies only to the city of New York. It is further amended by providing that a street surface road existing prior to May 6, 1884, and which shall have extended its tracks or constructed branches, operating the same under the provisions of chapter 252 of the Laws of 1884, or of this article, such corporation need only pay the percentages provided for in the section on such portions of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of its branches bear to the whole length of its line. This amendment is in line with the policy laid down in chapter 252 of the Laws of 1884. There would seem to be no objection to it.

34. Section 98, relating to repair of streets, is amended only in providing that it shall be applicable to street surface railroads.

35. Section 99 is amended by providing that the time for compliance with the requirements by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad wholly south of the Harlem river in the city of New York, is extended until June 30, 1893.

36. Section 100, relative to change of motive power, is amended by providing that where a change of motive power is granted the railroad corporation may make any changes in the construction of its road or roadbed or other property rendered necessary by the change in its motive power. This provision was in the original law of 1889, but was omitted in the law of 1890. It is now restored, and no objection can exist.

37. Section 101, relating to the rate of fare. This section is amended so as to provide that the charge of five cents for one continuous ride shall operate only within the limits of an incorporated city

or village. This was the provision of chapter 252 of the Laws of 1884, but was inadvertently changed in the drafting of the law of 1890. Hardship resulted under the operation of the law of 1890, and this amendment seeks to correct the defect. No possible objection can be urged against it.

38. Section 102, relating to the construction of a road in street where other road is built. As amended this section applies only to the city of New York, and is further amended by providing that any street surface railroad corporation, by a unanimous vote of its stockholders, may guarantee the bonds of any other street surface railroad corporation whose road is wholly or in part in the same city.

39. Section 103, relating to abandonment of part of the route of road. This section is new legislation, in the sense that chapter 532 of the Laws of 1889, which contained precisely the same provision, was repealed by the law of 1890. It is now re-enacted, and it never should have been repealed, and therefore no objection can be urged against it.

40. Sections 104 and 105 are amended only in their designation, by numbers, growing out of the dropping and merging of previous sections.

41. Section 106, relating to corporate rights, saved in case of failure to complete road. This is amended first by providing that it shall apply to roads which have operated their completed portion of their railroads continuously for a period of five years instead of ten. Secondly, by making the section applicable to villages having less than 20,000 inhabitants.

42. Section 107, relating to the use of sand upon tracks. This section is amended by substituting "rails" for "tracks" so that sand may be used in the space between rails instead of between tracks.

43. Section 108 is amended only in the change of its number.

44. Section 109, relating to center-bearing rails. This section is a new section, and is in exact terms the same as a bill recommended by the Board of Railroad Commissioners to the Legislature. It prohibits the laying of center-bearing rails in the future. It is a proper amendment.

45. Section 110 is also a new section, and provides that when any street surface railroad corporation shall have crossed any bridge for a period of more than five years, should any other bridge be substituted therefor the company shall not lose its right to cross the new bridge. It would seem to be a just provision.

46. Section 123 is amended by providing in the clause prohibiting elevated railroads being built upon certain streets, that the words "below Fifty-ninth street," after "Fifth avenue," should be stricken out, and the word "above" after Fourth avenue substituted for "and." The effect of this amendment is that no elevated railroad can be built upon any part of Fifth avenue in New York city, nor on Fourth avenue, above Forty-second street. These seem to be proper amendments.

47. Section 124 relating to the adoption of plans and terms upon which roads may be built. This section is amended so as to provide that the commissioners appointed shall not affix and determine upon the time when such railway, or portion of railway, shall be constructed, until notice shall have been given to the local authorities and after hearing of all parties interested. It also empowers such commissioners

after notice and hearing, to determine what compensation, if any, in a gross sum, or in a certain percentage of receipts, shall annually be paid to the local authorities by the corporation formed for the purpose of constructing a railway for public use. To this amendment there would seem to be no objection. It is further amended by adding that the commissioners may select two or more routes, and that the local authorities may consent to the construction and operation of a railway upon one or more of such routes or parts thereof, and the commissioners shall have power to change and readopt routes and plans after they have been submitted to the local authorities in cases where such authorities may recommend such changes or may not be willing to consent to the construction or operation of a railway upon the routes and plans adopted, unless such changes are made therein. The original intention was to permit the commissioners to select several routes from which the company could take one route. By the amendment it would appear that the companies could select more than one route and construct and operate it. The attention of the Executive is especially directed to this amendment.

48. Section 125, relating to appraisal of damages and deposit of money in security. This section is amended so that the court may accept in lieu of the deposit of money or securities required, the bond of the corporation, with two or more sureties to be approved by the court; such bond to be in a sum double the amount of the damages, the sureties to justify in the aggregate to an amount equal to the amount of such bond. The acceptance of the bond instead of the deposit of money is wholly within the discretion of the court. There would seem to be no objection to this amendment.

49. Section 131. This section is amended only to correct a typographical error.

50. Section 133, relating to the confirmation of commissioners' report. This section is amended in consequence of and to conform with the amendment to section 125. That being a proper amendment, this follows as such.

51. Section 136, relating to abandonment of change of route. This section is amended so that when a railway corporation shall apply to the board of supervisors of a county in which such portion of the route is located, which is not within the limits of a city, or if such route is within the limits of a city, then to the mayor, for authority to abandon a portion of its route, five commissioners may be appointed pursuant to such application. When such application is made by a corporation heretofore organized, such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors or as the case may be by the mayor. If such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or as the case may be, such mayor, may within thirty days after the presentation of such application, endorse thereon their or his approval and direction, that it may be presented to the Supreme Court and such court may thereupon appoint such commissioners.

52. Section 140, relating to penalty for violation of the article. This section is amended so as to include persons as well as property in the liability under which elevated railroads are held. It is a proper amendment.

53. Section 142 is amended by providing that the time within which any act which is required to be done under this article may be extended by the Supreme Court for cause shown for one year, and only one extension to be granted. It is also further amended by providing that any company which has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated notwithstanding any failure on the part of the commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. It is to be presumed that this amendment seeks to correct a defect in the articles of incorporation of some existing corporation.

54. Section 162, relating to the legal effect of the recommendations and actions of the Board of Railroad Commissioners. This section formerly provided that the findings of the Board of Railroad Commissioners should be presumptive evidence of the facts therein stated and the recommendations of the Board should be deemed *prima facie* to be just and reasonable. It has been amended by striking out these provisions.

By the Board.

VII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL, ENTITLED "AN ACT TO AMEND SECTIONS 152, 153, 156, 169 AND 170 OF TITLE SIX OF CHAPTER 565 OF THE LAWS OF 1890, ENTITLED 'AN ACT IN RELATION TO RAILROADS, CONSTITUTING CHAPTER 39 OF THE GENERAL LAWS.'"

May 9, 1892.

To the Governor of the State of New York:

The Board respectfully returns Assembly bill (printed No. 1529) entitled "An act to amend sections 152, 153, 156, 169 and 170 of title six of chapter 565 of the Laws of 1890, entitled 'An act in relation to railroads, constituting chapter 39 of the general laws.'"

This is a bill which relates exclusively to the Board of Railroad Commissioners. Section 152 is amended so that the secretary of the Board shall have the power to designate one of the clerks appointed by the Board to act as assistant secretary, at any time when the secretary is absent from the city. The powers which such assistant secretary may exercise are limited to the county of Albany and to the time of the absence of the secretary from the office.

There is a frequent call for attested copies of documents which, when certified by the laws, are made evidence in the courts. At present there is no provision for the attesting the signature other than the secretary of the Board. As official duties frequently call him from the office this failure to provide for some other means of attesting papers and certifications has worked hardship. By this amendment such difficulty will be overcome.

Section 153 is amended so as to give to the Board a greater discretion in the matter of its clerical force. When the law for the creation of the Board was first enacted the number of clerks which the Board might engage was limited to six. Why that limitation should have been made in the act before the needs or necessities of the Board by

practical operation could be known, it is difficult to tell. Since that time, however, the Legislature at each session has imposed increased duties on the Board, naturally swelling the volume of business and of clerical work to be performed. The Board asks that the limitation of six clerks be removed so that it can, in its discretion, appoint the number the business demands.

Section 169 is amended as a consequence of the amendment to section 153, in amending it by removing the limitation of \$6,000, the aggregate amount to be paid to the clerks. The Board asks for discretion in this so that it may properly grade the salary of its clerks. The Board desires to call the attention of the Executive to the fact that while these limitations as to the number of clerks and the salaries to be paid to them is removed by these amendments, that the limitation of the appropriation still remains; in other words, the Board only asks discretion within the appropriation, which is not increased, nor has it been since the establishment of the Board. This section is also amended so as to increase the salary of the secretary to \$6,000. The railroad companies bearing this expense recognize the justice of this in rease and favor it. As has already been stated, the general appropriation of the board is not increased.

Section 170 is amended by excepting from the limitation of \$50,000 expense the cost of printing and binding the annual reports of the Board as provided by law. The payment of such reports is provided by chapter 588 of the Laws of 1886. Under the old form of the law there was no question whatever that this cost did not properly come from the \$50,000 appropriation. In fact, the law did not contemplate the printing of 7,000 copies. The Laws of 1885 and 1886 provided for this publishing of reports and providing for the payment of their cost and this was done by the Legislature without the advice, suggestion or consent of the Board of Railroad Commissioners of that day. The question, however, has been raised that the section, as it stands in chapter 565 of the Laws of 1890, is open to the construction that that expense must be charged against the \$50,000 appropriation. Such charge, were that construction to obtain, would necessitate an increased appropriation for the Board.

The Board has thus enumerated every amendment made to the law in the bill and respectfully requests your signature to the bill.

By the Board.

VIII.

REPORT OF THE BOARD ON THE SENATE BILL (PRINTED NO. 416)
ENTITLED "AN ACT TO AMEND SECTION 101, ARTICLE 4, CHAPTER
565 OF THE LAWS OF 1890, ENTITLED 'AN ACT IN RELATION TO
RAILROADS, CONSTITUTING CHAPTER THIRTY-NINE OF THE GEN-
ERAL LAWS.'"

May, 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 416) entitled "An act to amend section 101, article 4, chapter 565 of the Laws of 1890, entitled 'An act in relation to railroads, constituting chapter thirty-nine of the general law.'"

This bill seeks to correct an inadvertence upon the part of the Revision Commission in section 101 of chapter 565 of the Laws of 1890, occurring by omitting the words "within the limits of any incorporated city or village." The effect of this omission restricted the railroads to charge but five cents for a continuous passage, whether the line was wholly or partially within the limits of an incorporated village or city. The laws of 1884 permitted a railroad company to charge more than one fare where the railroad crossed the line of a civil division and sought a terminus in a town or place other than that in which it began. The omission in the act of 1890 was a great hardship to many of the roads in the interior of the state, and this Board in 1890, in calling the attention of the Executive to the omission, then recommended that it should be reinserted. It believes that this bill could with great propriety receive the Executive sanction. However, the bill of the Revision Commissioners also amends this section in the same manner, and, therefore, if your sanction should be given to such bill, Senate bill No. 416, the one under discussion would be unnecessary.

By the Board.

IX.

REPORT OF THE BOARD ON THE SENATE BILLS (PRINTED NOS. 94, 553) ENTITLED "AN ACT TO AMEND SECTIONS ONE AND TWO OF CHAPTER 529 OF THE LAWS OF 1887, ENTITLED 'AN ACT TO REGULATE THE HOURS OF LABOR IN THE STREET SURFACE RAILROADS CHARTERED BY THE STATE.'"

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bills (printed Nos. 94, 553) entitled "An act to amend sections one and two of chapter 529 of the Laws of 1887, entitled 'An act to regulate the hours of labor in the street surface railroads chartered by the State.'"

This bill amends section 1 of chapter 529, by omitting the provision that ten hours' labor shall be performed within twelve consecutive hours, and the words, "and elevated railroads" and substitutes for cities of more than 100,000 inhabitants the words "over 50,000 inhabitants." It amends section 2 by making it a misdemeanor upon the part of any officer or agent of a railroad to accept from any of its employes in such cities, under agreement or otherwise, more than ten hours' labor in any day, as well as to exact it.

The effect of it is that ten hours labor may be exacted but not necessarily within twelve consecutive hours; that elevated railroads are exempted from the provisions of the law of 1887, which was at the time of its passage supposed to be in the interest of the workingmen; and that no contract can be entered into between employer and employe, for more than ten hours labor, no matter what the circumstances, except in cases of accident or unavoidable delay.

By the Board.

X.

REPORT OF THE BOARD ON THE SENATE BILL (PRINTED No. 618)
ENTITLED "AN ACT FOR THE RELIEF OF STREET SURFACE RAIL-
ROAD COMPANIES ORGANIZED UNDER CHAPTER 252 OF THE LAWS
OF 1884."

May 9, 1892.

To the Governor of the State of New York:

The Board of Railroad Commissioners herewith respectfully return Senate bill (printed No. 618) entitled "An act for the relief of street surface railroad companies organized under chapter 252 of the Laws of 1884."

This bill provides that a railroad company now organized which is operating any extension or branch of its road along any street or highway or portion thereof within the county named in its articles of association, and which shall have obtained the consent of the owners of one-half in value of the property bounded on the road and also of the local authorities, shall be authorized to operate and maintain the same as fully as if said streets and highways or portions thereof had been fully named in its articles of association, upon filing in the office of the Secretary of State a certificate signed by its board of directors, containing a statement of the names of the cities, towns, villages and counties and the names or descriptions of the streets, avenues and highways in which such extension or branch has been constructed, and the length thereof; whereupon these extensions and branches shall be considered a part of the lines of railway of such corporation, with the same force and effect as if they were fully named and described in the original articles of association.

Chapter 252 of the Laws of 1884 provided that all branches and extensions, as well as new roads, should be named in the articles of incorporation. This bill evidently seeks to remedy a defect in non-compliance with the provision of the law of 1884.

There seems to be no objection to the bill, and the Board deems that it can receive executive approval without detriment to public interests.

By the Board.

XI.

REPORT OF THE BOARD ON THE SENATE BILL, (PRINTED No. 627)
ENTITLED "AN ACT TO REGULATE THE CUSTODY AND DISBURSEMENT
OF EXPERIMENTAL ELEVATED RAILWAY INCOME PERCENTAGE SPECIAL
TAX RECEIPTS IN CERTAIN CASES."

May 9, 1892.

To the Governor of the State of New York:

The Board herewith respectfully returns Senate bill (printed No. 627) entitled "An act to regulate the custody and disbursement of experimental elevated railway income percentage special tax receipts in certain cases."

This bill has been before the Legislature for a number of years, and has as regularly failed to receive executive sanction. The Board quotes from its report to your predecessor in 1889:

"As stated by the corporation counsel of the city of New York, in a brief with regard to this measure, 'The object of the bill is to turn over to one Charles T. Harvey, the sum of \$206,611.70 now in the treasury of the city of New York, and the property of the corporation, as an indemnity to him for certain wrongs which he is alleged to have suffered by reason of some supposed acts of bad faith toward himself on the part of State officers or State authority in connection with a railroad enterprise in the city of New York.'

"The merits of Mr. Harvey's claim have been differently viewed by bodies and committees investigating it. The Board is not prepared to express an opinion thereon at the present writing. It deems, however, that it can with propriety fall back upon a decision of the Court of Appeals rendered June 1, 1886, in a suit brought by the city of New York to resist the payment of these funds to Charles T. Harvey, in accordance with chapter 554 of the Laws of 1885, which law was at that time declared unconstitutional.

"In that decision, speaking of the experiments which Mr. Harvey made and for which he demands this compensation the court says, 'But these were Harvey's experiments; no one directed him to make them. Neither the city nor the State so far as the record shows, owed him anything for them or was under the slightest legal or equitable obligation to bear their expense and compensate him therefor.'"

The Board at that time carefully examined each of the provisions of the bill and concluded that it was one "from which the Executive might with great propriety withhold approval."

This report is to be found on page 19 *et seq.* in the report for the year 1889.

The bill under consideration does not differ materially from the one then discussed, except in the amount of money claimed, which has been increased, apparently by the interest.

The Board sees no more reason why the bill of 1892 should become a law, than it did the bill of 1889.

By the Board.

XII.

REPORT OF THE BOARD ON THE SENATE BILL (PRINTED No. 876)
ENTITLED "AN ACT TO AMEND AND ADD TO THE RAILROAD LAW."

May 9, 1892.

To the Governor of the State of New York:

The Board of Railroad Commissioners respectfully returns Senate bill (printed No. 876) entitled "An act to amend and add to the Railroad Law."

This bill provides that a railroad which is not longer than sixteen miles, intended in large part for summer travel need not operate its road except in the months of June, July, August and September; that the motive power may be elec-

tricity; and if the road is not longer than ten miles it shall have authority to charge fifteen cents a mile or fraction thereof. This is done by adding to the Railroad Law a new section to be known as section 21. The railroad revision bill now before you also provides for a section 21, which relates to electric light and power corporations, providing that under certain conditions they shall become railroad corporations. Confusion would result were you to give your signature to that bill as well as this one, from this cause. But graver objections than this exist. Section 55 of chapter 565 of the Laws of 1890, already provides that the directors of any railroad corporation used principally for transporting lumber or ores during the summer months or for summer travel, may apply to the Board of Railroad Commissioners for authority to suspend its operations for a period not exceeding seven months. This section is carefully drawn and the public interest closely guarded. It does not seem that the interests of the public are served by this indirect repeal of section 55. It is not a discretion which should be vested in the railroad company.

Section 100 of chapter 565 of the Laws of 1890, vests the Board of Railroad Commissioners with power to approve of any change of motive power a road may desire, and it is competent for any road which is projected to organize under the form of electric motive power, so that if the bill under consideration seeks to invest any particular road or roads with the power to use electricity as a motive power, the same can be obtained under existing law.

Section 37, chapter 565, Laws of 1890, provides most liberally for those roads in the operation of which heavy grades have to be overcome. For instance, where the motive power is rope or cable propelled by stationary power, five cents with the right to a minimum fare of ten cents; if less than two miles in length and overcome an elevation of 500 feet or more to the mile, five cents for every 100 feet of elevation; if a narrow gauge road, outside of the limits of any incorporated city, not more than twenty-five miles in length, five cents; and if it overcomes an elevation of 200 feet to the mile, for at least two consecutive miles, ten cents; if 300 feet, five cents for each 100 feet of elevation; and if 1,000 feet, seven cents for each 100 feet of elevation. Fifteen cents a mile is a charge on a railroad having no grades, without precedent in the State, and clearly is an enormous one. If the road or roads sought to be effected by this bill have grades to overcome, there is ample provision in section 37 for them.

The Board deems, for the reasons above given, that the objects sought to be accomplished by the bill can be accomplished under the law as it now stands, except in the matter of the fare, which, in the opinion of the Board, is improper, and therefore suggests that the bill ought not to become a law.

By the Board.

COMPLAINTS

OF

CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

I.

JAMES MERRIMAN v. THE UTICA BELT STREET BELT LINE RAILROAD COMPANY.

November 6, 1891.

The allegation was that at the crossing of the street road over the tracks of the Delaware, Lackawanna and Western Railroad Company, by the street electric cars the noise was so great as to be an intolerable nuisance, occurring as it did every seven and a half minutes until midnight. The company denied the nuisance and insisted that the crossing was of a construction approved by railroad men.

The Board caused an inspection of the crossing in question and the complaint was found to be well founded. The substitution of a crossing plate solidly laid, such as are in use where a steam road crosses another, was suggested.

The company acquiesced in the suggestion.

By the Board.

II.

M. W. LEECH, HIGHWAY COMMISSIONER OF THE TOWN OF MANLIUS, v. THE WEST SHORE RAILROAD COMPANY.

November 9, 1891.

The complaint was that a dangerous crossing at grade existed at Kirkville, on the line of the West Shore Railroad, made so by the erection of a high board fence which concealed the view from the west and a section or tool-house on the east. The company admitted the dangerous condition and proposed to cut down this fence, which was a snow fence eight feet high, for the space of 300 feet to six feet, and remove the section-house. To this proposition the complainant strenuously objected as no remedy at all, since a fence six feet high would be as great an obstruction as one eight feet high.

Whereupon the company proposed to erect instead of this fence a low, movable one. This proposition was forwarded to the complainant; as he has made no reply it is presumed it is satisfactory.

By the Board.

III.

MRS. M. A. ROBINSON v. THE NEW YORK AND MASSACHUSETTS
RAILROAD COMPANY.

December 16, 1891.

Mrs. Robinson complained that the smokestacks of the engines of the company complained of were not properly protected by screens, whereby live cinders were thrown into her fields and fire communicated. She had lost hay by this means to a considerable amount, and her buildings were continually in jeopardy. On transmitting the complaint to the company, it made answer that complaint had been made by Mrs. Robinson to the company subsequent to the making of the complaint to the Board, that her claims had been paid in full, her receipt for which payments are held by the company. The complainant did not reply when this letter was communicated to her, and the Board presumes this to be true.

By the Board. _____

IV.

W. S. CARSON v. THE NEW YORK CENTRAL AND HUDSON RIVER
RAILROAD COMPANY.

December 23, 1891.

The complainant alleged that the New York Central and Hudson River Railroad charged at the rate of three cents a mile from Geneva to Lyons, in violation of the legal fee of two cents.

The reply of the company was that the road between the points named was not a part of the system of the Central but was the Geneva, Lyons and Corning road and leased to the Fall Brook Coal Company and was by statute entitled to exact three cents. An investigation made by the Board discovered this to be the exact fact and the complainant was so informed.

By the Board. _____

V.

JACKSON'S EXPRESS COMPANY v. THE LONG ISLAND RAILROAD
COMPANY.

December 29, 1891.

This complaint, dated November 4, 1891, was lodged with the Board. It alleged that both the Long Island and Pennsylvania Railroad companies refused to sign receipts for passenger baggage left by Jackson's Express at their stations. That at all railroad stations and boats in New York, except at those of these two companies, receipts were signed; that both these railroad companies signed such receipts for other local express companies and that Jackson's was the only express company that such companies refused to sign for.

The complaint against the Pennsylvania railroad was withdrawn on November fifth, inasmuch as the company agreed to sign the receipts requested.

After transmission of the complaint to the Long Island company and considerable correspondence, a letter dated November fifteen from Mr. Corbin was received, in which he states "I will say this, that if Mr. Jackson will prepare his receipts specifying the baggage he is to leave so that it can be identified and stating in the receipt that in case the receipt is not returned the Long Island Express Company may deliver it to any person claiming it at the risk of Jackson's Express, I will instruct the express company to check off the baggage with their check and give him a receipt for it, they having prepared it in that form. He certainly should be entitled to have the same treatment that others have, and I will see that he gets it."

To this suggestion of Mr. Corbin, Mr. Jackson very properly declined to conform.

In a letter received from Mr. Benjamin Norson, vice-president of the railroad company, he states that he is *informed* that the railroad company is acting no differently from other railroads which center in New York, and that furthermore there are but two express companies in the latter city (the volume of whose business is so considerable that it is a matter of absolute necessity) to whom such a favor as the Jackson company asks is accorded.

The Board is of the opinion that the demand of Mr. Jackson is in no sense a favor, but a right. The railroad company admits that the receipts for baggage are given to at least two express companies. Mr. Jackson's Express has been in operation for many years and is a responsible company. The Board is of the opinion that it is his right to receive receipts for passenger baggage, without any condition that such baggage may be delivered to anybody claiming it without showing Jackson's receipt to such passenger.

RECOMMENDATION.

The Board recommends that the Long Island Railroad Company instruct its agents at its stations to sign receipts for passengers' baggage delivered by Jackson's Express Company, without affixing any conditions that such baggage may be delivered to persons claiming it without showing the receipts given by Jackson to such persons.

The company, however, in effect, refused to comply with the recommendation and was finally cited to show cause why its failure to comply should not be presented to the Attorney General for his action. At such hearing the company appeared by counsel, defending its action and asking that the Board suspend all proceedings in the matter. The Board did present the papers in the case to the Attorney General. When appearances were made before that official an amicable conclusion was reached between the parties to the proceedings, the complainant being put upon the same ground as other express carriers.

By the Board.

VI.

IN THE MATTER OF THE COMPLAINT OF JEWELL & STONEMAN OF
MACHIAS, N. Y., v. THE WESTERN NEW YORK AND PENNSYLVANIA
RAILROAD COMPANY.

January 12, 1892.

This complaint, dated December 1, 1891, alleges that the complainants were charged by the Western New York and Pennsylvania Railroad Company nine dollars and sixty cents each on two cars of potatoes, for drawing said cars from Old Machias to Machias Junction (the point of intersection with the Buffalo, Rochester and Pittsburg Railroads), the distance being less than two miles.

The railroad company admitted that the charge had been made and paid, but attempted to justify itself upon the ground that the points to which the cars were consigned, viz.: Walston and Punxsutawney, on the line of the Buffalo, Rochester and Pittsburg Railroad, could have been reached by despatching the cars over the Western New York and Pennsylvania Railroad consigned to these respective points on the B. R. & P. R. R., with which company the W. N. Y. & P. R. R. Co. claim to have a joint traffic arrangement, and that had the shippers made "proper application" to the W. N. Y. & P. Co., a through rate would have been given them which would have been no higher than complainants paid from Machias Junction to the B. R. & P. R. R. Co.

The complainants deny that any other rate could be obtained from Machias, and submit an affidavit signed and sworn to by George A. Stoneman that some time in the forepart of December, 1891, he, Stoneman, asked M. S. Cole, the agent of the W. N. Y. & P. R. R. at Machias, if he, Cole, had a through rate on potatoes in car loads from old Machias or Yorkshire to Walston and Punxsutawney, Pa., by the W. N. Y. & P. R. R., that he, Stoneman, was informed by said agent Cole that he had no through rate on file covering shipments of potatoes in car loads from Old Machias or Yorkshire to these points. Deponent further says that on the second day of January, 1892, he was informed by said agent Cole, that he had not then in his possession, neither had he at any time during the year 1891, through rates covering shipments of potatoes in car loads from Old Machias or Yorkshire to Walston and Punxsutawney via the W. N. Y. & P. R. R.

In course of the correspondence some comparisons were drawn between the rates charged on ice from Machias to Buffalo and the charge made on these potatoes. The comparison, however, does not seem to be pertinent.

The Board is of the opinion that the charge of nine dollars and sixty cents for hauling a car load of 24,000 pounds of potatoes a distance of two miles from Machias to Machias Junction was excessive, as compared with the charges for similar service on any railroad within the State.

RECOMMENDATION.

The Board recommends that the Western New York & Pennsylvania Railroad Company refund to Jewell & Stoneman the sum of eleven dollars and twenty cents, that is, all the charges made in excess of four dollars each for hauling these cars from Machias to Machias Junction.

By the Board.

VII.

E. E. FRENCH v. THE UTICA BELT LINE RAILROAD COMPANY.

January 12, 1892.

The condition of the track and roadbed in front of the complainant's property was complained of and an inspection of the same asked.

The reply of the company was rather an attack upon the hotel of which French was the proprietor, than a defence of the condition of the track.

An inspection was ordered and the track was found to be in a very bad condition, the rails extending considerably above the level of the road, the roadway between the tracks dug out and the planking where it had been worn out left in a dangerous condition, the whole making passage to the hotel inconvenient to wagons and dangerous to light vehicles. The Board issued an order to show cause why it should not recommend the repairs. The company asked to be relieved from showing cause, and promised to put the road in proper condition. The promise has been fulfilled.

By the Board.

VIII.

STEPHEN H. INFIELD v. THE DELAWARE AND HUDSON CANAL COMPANY.

January 13, 1892.

The complainant is highway commissioner of the town of Fort Ann, Washington county, and his complaint was that the crossing at the Wray highway north of Comstock's station was over an embankment and so narrow as to be dangerous.

When this condition was presented to the company orders were promptly given to widen the highway to the full width of twenty-six feet, which was as promptly executed.

By the Board.

IX.

IN THE MATTER OF THE COMPLAINT OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, AS TO LACK OF STATION FACILITIES AT NEWBURGH JUNCTION.

February 1, 1892.

This complaint reached the Board on the twenty-fourth of December, 1891, in the form of a preamble and resolution adopted by the board of supervisors of the county of Orange, as follows:

"Whereas, it has come to the personal notice of members of this board, especially to the members of Newburgh city and towns of the eastern portion of the county (of necessity compelled to travel on the Erie railway) that the station or waiting room at Newburgh Junction is

inadequate to accommodate the number of travelers at such place on said railway; in fact, it is almost intolerable for ladies and unfit and entirely unsuitable for men,

Resolved, That the sense of this board is that the said railway should be requested to erect a suitable waiting room at such junction. Be it further,

Resolved, That the clerk of this board be instructed to send certified copies of this resolution to the Railroad Commissioners of the State."

The complaint was forwarded to the railroad company, and on the fourth day of January a reply was received from John King, President, stating in substance that Newburgh Junction is not a station or regular stopping place for passenger trains; that it is located within a mile of Turners, at which point business to and from the Newburgh branch is transferred; that the only trains that stop there are for the purpose of transferring to the Newburgh branch train, which is standing to receive passengers from it.

A member of the Board visited the premises, and from an inspection and information received from supervisor Charles Ketcham of the town of Cornwall, and an examination of the time table, it appears that there are several trains that are scheduled to stop at this point; and that at certain periods of the year the travel is considerable. Members of the board of supervisors, judges, lawyers, witnesses and others attending court at the county seat, are in the habit of taking train No. 30, which the time table shows arrives at Newburgh Junction at 5.36 P. M., where they wait until the 6.15 P. M. train arrives, making a wait of over half an hour. Similar complaints were made in regard to other connections at this point.

The accommodations at Newburgh Junction are not, in the opinion of the Board, satisfactory, and the Board therefore,

Recommends, That a proper and suitable waiting room be erected at Newburgh Junction by the New York, Lake Erie and Western Railroad Company, for the accommodation of the patrons of the road.

By the Board.

X.

JOHN LYON v. THE LONG ISLAND RAILROAD COMPANY.

February 4, 1892.

The complaint alleged that a great number of accidents had and were occurring on the branch of the road known as the Montauk or South Shore division, through insufficiently protected crossings and the neglect of the company to station flagmen and erect gates at certain crossings as ordered by the county judge. The complaint gave the names of several killed. An investigation showed that the company had neglected to comply with the statute and requirements of the Board, in forwarded reports of such accidents. The Board in transmitting a copy of the complaint, demanded the reason of such failure. It may be remarked here that reports of accidents are now filed with the Board as required.

A further item of complaint was that the crossings were frequently blocked at Rockville Center, and upon one occasion a train loaded with fertilizers was left from Saturday night to Monday morning. Investi-

gations upon the part of the company discovered this part of the complaint to be true, and the offender was suspended thirty days as a matter of discipline.

The company admitted that the company had been held responsible for the death of one of the persons alluded to in the complaint, Epenetus Wood, in not having the crossings (at Freel, a mile east of Rockville Center), protected by gates and flagmen, while it exonerated the employes or crew of the train.

In extenuation the company, in its answer, set forth that the night was dark and stormy and that Wood was an aged and deaf man, who had attempted to drive across the track in front of the train, though the whistle was blown. As to whether the whistle was blown or not there is some doubt, as there is conflicting testimony on that point. The others specified in the complaint were not killed on the crossing, but on the tracks near there, and were trespassers to whom all possible warning was given by blowing of whistle and ringing of bells.

The company claimed that at the time of making the answer the order of the court had been complied with as to the crossings at Valley Stream and Pearsalls and that bells had been erected at Rockville Center and Freeport crossings. The company promises that gates should be erected at Rockville Center, Freeport and Mevrick plank road, doing away with bells at the two first named.

In reply the complainant said that a flagman had been placed for one day at Rockville Center crossing and at the others for a night or two, and that in effect the orders of the court had not been complied with.

The company repeated that the order of the court had been explicitly complied with. That it was ordered to establish flagmen at three crossings, that the company had been petitioned by residents to protect five crossings and the complainant's reference were to the two not included in the court's order.

As no further reply was made to this communication by the complainant when transmitted, it is presumed he was satisfied.

By the Board.

XI.

RUDOLPH KRAFT v. THE STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY.

February 1, 1892.

Mr. Kraft complained of the manner in which a dangerous crossing at Tottenville of the above road was protected. He alleged that the flagman was defective in vision and mentally incompetent to do the work he was called upon to perform. The company in express terms denied the charges. Both sides asked for an inspection of the crossing, and consequently Commissioner Rickard of the Board made such inspection. The remedy of the evil seemed to lay in a change of location of the tracks. Over this a discussion arose and it was soon found that the company was willing to make such removal of tracks provided the village of Tottenville would share the cost of the work, and that the village was willing to bear its proportionate share.

Subsequently, however, it was found that the charter of the village stood in the way of such expenditure upon the part of authorities, and an effort was made to induce the Board to compel the railroad company to perform the work of removal at its own expense.

An examination of the statutes bearing upon the question at issue developed that by the provisions of subdivision 2, section 3, subdivision 3, section 7 and section 13 of chapter 565 of the Laws of 1890, known as the "Railroad Law," that the said railroad company had the privilege, if it so elected, to change the route of its road, so as to do away with the objectionable features of the highway crossing complained of, and to take lands by condemnation, if necessary, for such purpose. No provisions of the law could be found, however, by which the railroad company could be compelled to effect such a change, having once located and constructed its road in compliance with the law.

It was, therefore, scarcely within the province of the Board to order such a change, although it might very properly look upon such a change of route as desirable. The adjustment of the expense, attendant upon such a change, would, therefore, seem to be a matter lying solely between the authorities of the village of Tottenville and the railroad company. This Board having no jurisdiction in the matter how such adjustment could be effected, in view of the provisions of the charter of the village of Tottenville was, therefore, a question for the corporate counsel of the village to determine.

By the Board.

XII.

GEORGE S. PENFIELD v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

February 8, 1892.

In 1887 the residents of Washingtonville, a small place near Mount Vernon, Westchester county, on the New York Central and Hudson River railroad, complained that there was no accommodations at that place for passengers, such as the importance of the traffic it could supply would warrant. After hearing an investigation the Board recommended that a covered platform station be established and maintained, which was done.

In January of the present year the complainant set forth that the rate of fare was the same as from the station next further from the city and that no tickets were on sale. The complainant alleged that the traffic amounted to 150 daily.

The company in its answer set forth that the station as established and maintained was in accordance with the order of the Board of 1887, and that sixteen north bound and thirteen south bound passengers stop at the station daily, though the patronage hardly justified the expense consequent thereupon. The company, in addition, said that in view of certain improvements to be made in accordance with a contract entered into between the village of South Mount Vernon (Washingtonville) by its president, and the New York, New Haven and Hartford Railroad Company, increased station accommodations would be provided at this point at an early day.

A copy of this answer was transmitted to the complainant with a request for reply. Since none has been received the Board assumes that the complainant was satisfied with it.

By the Board.

XIII.

STAATES E. MEAD *v.* NEW YORK CENTRAL AND HUDSON RIVER -
RAILROAD COMPANY.

February 13, 1892.

The complaint alleged that a cow belonging to the complainant had been killed on the Lake Mahopac branch of the Harlem division by the defendant's engine, the cow having gotten upon the tracks by reason of the insufficient condition of the fences on the line. Upon the transmission of the complaint the company paid the complainant the damages claimed, as the Board was informed by both defendant and complainant.

By the Board.

XIV.

NATHANIEL VOOS *v.* THE NEW YORK AND HARLEM RAILROAD
COMPANY.

February 25, 1892.

The complaint was that through the insufficiency of the company's fence on the line of the Mahopac branch two cows belonging to the complainant got upon the track and were struck by a passing train, injuring them severely by breaking their legs.

When the complainant was assured by the superintendent that any claim he might have against the company would not be prejudiced by removal of the cows he had them appraised, the sum being \$80 and subsequently butchered at a cost of \$10, making his claim against the company \$90. The dressed meat he sold for \$32.47, leaving a balance of claim against the company of \$57.53, which he claimed the company would not consider.

Upon the transmission of the complaint the company settled the claim, the Board being so informed by the complainant.

By the Board.

XV.

A. H. BROWN *v.* THE NEW YORK CENTRAL AND HUDSON RIVER
RAILROAD COMPANY.

March 26, 1892.

This complaint alleged that during the summer of 1891 that the New York Central and Hudson River railroad station at West Batavia was destroyed by fire. This station was on the north side of the track furthest away from the great bulk of the population of the town, making it necessary for passengers to cross the four tracks to take a

train. This was dangerous by reason of the number of freight trains frequently passing. When the company began the erection of a new station to take the place of the one burned it determined to build on the site of the old station, and at the time of the making of the complaint it had already nearly completed the foundation walls. The complaint was in fact a petition that the new station should be built on the south side of the track.

In answer, the company sets up that the site had been chosen because the ground on the north side was reasonably high and dry, whereas on the south it was marshy and seven feet below the level of the main track; that there was ample room upon the north side, whereas upon the south side the building must of necessity be within five feet of the tracks; that the business was small and but one man was employed, and it was more convenient to have both freight and passenger stations on the same side.

Before going further in the matter the Board required that a petition should be received from the residents of West Batavia which should be some indication of the general need and sentiment as to the location of the station. Such a petition, numerously signed, was forwarded to the Board promptly; thereupon the Board caused an inspection of the premises to be made.

From this inspection it was learned that the original location of the station on the north side was an error, and as well the omission of a suitable freight-house was an error and had militated against an increase of traffic at that point. The suggestion was made that the foundations on the north side almost completed at the time of the inspection should be used for the foundations of a suitable and commodious freight-house, and that a new station building should be erected on the south side of the track 200 feet west of the highway crossing the tracks, where an excellent site could be secured, by the purchase of an eighth of an acre of additional ground. The necessity for the protection of the highway crossing at that point by gates and flagman was also discovered.

To all these suggestions the company acceded and promised to make the improvements desired by the people of West Batavia and suggested by the Board.

By the Board. _____

XVI.

MILTON TRAVERS AS COMMISSIONER OF HIGHWAYS OF THE TOWN OF
DEPOSIT v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD
COMPANY.

March 28, 1892.

The complaint was that the company had erected a switch at Hall's Eddy in the town of Deposit, nearly parallel with its main line, so that it passed over a highway in close proximity to the rails of the main line. Upon the east side of the highway as the crossing was approached from the south was a high embankment which obstructed the view of trains approaching from the east. In the use of the switch, it was alleged that the habit of the train men was to run the

cars over the highway thus obstructing the view from the west. Inasmuch as five rods from this crossing to the south there was a river which was crossed by teams over a covered bridge, when the crossing was obstructed by cars, the view of approaching trains was cut off from both sides.

In transmitting this complaint the Board called the attention of the company to the provisions of the statute (chap. 358, Laws of 1891) making the obstruction of a farm or highway crossing for more than five consecutive minutes a misdemeanor. The company informed the Board that positive instructions had been given that close attention must be given to keeping the highway open, and to avoid in every way interference with its free use by the public.

By the Board.

XVII.

IN THE MATTER OF THE COMPLAINT OF E. V. PARKER AGAINST THE NEW YORK, LAKE ERIE AND BUFFALO RAILROAD COMPANY.

March 28, 1892.

This complaint, dated December 29, 1891, alleges that merchants of Rochester engaged in the business of selling groceries, are permitted to ship goods to points on the defendant's road fourth class without regard to their weight or bulk. This, the complainant alleges, constitutes a discrimination in classification against the New York merchants dealing in the same line of goods and selling at the same points. Goods are shipped from New York to the points named under four classifications, and the same rule applies to goods shipped from New York to Rochester. The discrimination is alleged to occur in the shipment of these same goods from Rochester fourth-class. For instance, the rate on tea to Livonia from New York would be thirty-five cents per hundred pounds; from New York to Rochester twenty-five cents, and from Rochester to Livonia (fourth class) seven cents, together thirty-two cents, which would show an apparent discrimination of three cents against New York.

There is no dispute as to the facts. The defendant company admits the rates and the rule obtaining, and justifies the practice upon the ground that if it were otherwise, the large merchants of Rochester could not handle the goods in competition with New York houses selling direct. This rule and practice governs all competing lines out of Rochester. It is not alleged that this rule and classification is not open to all who desire to avail themselves of it.

It is difficult to see wherein the discrimination really exists, since it is competent for the New York merchant to ship his goods to Rochester at the twenty-five cent rate and from thence to Livonia under the fourth classification. At Rochester, doubtless he would be met with the additional cost of handling the goods, in receiving and reshipping the same, but the Rochester merchant meets the same expense, and it may be urged that the Rochester merchant in breaking bulk and handling goods as received from New York, incurs an expense which makes the cost of shipment from New York to Livonia by way of Rochester to him as great as the cost of a direct shipment from New York to

Livonia. But whether it does or not, the fact that the New York merchant can, if he sees fit, avail himself of the New York-Rochester rate and the Rochester-Livonia rate would seem to dispose of the charge of any discrimination.

In this view of the question the Board believes no real discrimination exists, and the complaint is dismissed.

By the Board.

XVIII.

IN THE MATTER OF THE COMPLAINT OF JAMES S. ROOT AGAINST THE LEHIGH VALLEY RAILROAD COMPANY.

March 31, 1892.

This complaint, under date of July 16, 1891, was lodged with the Board and alleged that a new line of railroad was being built from Geneva to Buffalo by the Buffalo and Geneva Railway Company and that in the town of Phelps the line runs across the farm of Mrs. E. Root; that an injustice is being done her in not making a proper pass-way for stock, etc., across the line; that the farm is used for dairy and other farm products; that as the railroad company propose to leave the matter there was no place for stock to go to water to the creek on the north end of the farm without an attendant; that even with an attendant there was danger in driving stock over the grade crossing, as a train coming from the east could be seen only a few rods away because of an embankment twenty or more feet high formed by a cut; that the same danger attended the driving of teams across the track; that by reason of the fact that there was a spot where the ground is sufficiently depressed for a passway, relief could be obtained by the construction of an undercrossing.

This complaint was transmitted to W. S. Bissell as president of the Buffalo and Geneva Railway Company. It appeared, however, that the company had been merged with the Lehigh Valley Railway Company, Mr. Bissell remaining as counsel. In a letter of July 28th to this Board, Mr. Bissell informed it that he has drawn the attention of the chief engineer to the matter. Considerable delay ensued, although the Board was informed that a resident engineer had called upon Mrs. Root and told her that the company would submit a proposition to buy the property on the south and cut off from the body of the farm by the line of the road, as it would be cheaper than to build a passage for the stock under the road. Nothing, however, came of the proposition, and in the meantime the condition complained of in July was made more inconvenient by the fences that had been built and the heavy gates that were set up at the grade crossing, which made it necessary to employ two or three persons to drive the stock across the road.

The Board, under these circumstances, addressed a communication to Mr. Wilber, the president of the Lehigh Valley road, asking if it were not practicable to construct an undercrossing at the point. To this communication the company, by its counsel, replied that the embankment, which had been alleged by Mr. Root to be between fifteen and twenty feet high, was but six feet, and that, therefore, an undercrossing, the relief sought for by the complainant, was not fea-

ible. There was here a wide divergence of statement, and the point as to the practicability of such undercrossing, and the relief sought for by the complainant being involved, the Board instructed its inspector to proceed to Phelps and make an investigation and report upon the same.

This the inspector did under date of January 6, 1892, and to the following effect: Mr. Root and the railway company were duly notified and were present and represented at the inspection of the ground and railroad crossing made January 5, 1892. At station No. 531, as shown on inclosed map and profile, there is a fill of six and seventenths feet at center line of railroad. The roadbed is graded for two tracks and north line of rails laid. A cattle pass having six and one-half feet head-room, and possibly eight feet by excavating to a level with the north side of slope stake can be and is practicable. A good grade crossing is had at the east side of farm. There is 900 feet of unobstructed view of approaching trains from the east, and twice or more from the west. The roadway is 150 feet wide, and a lane through its width could be fenced up to within a few feet of the rails, which would aid much in guiding stock across the railroad. Gates which roll back and swing on center have been provided and a strong wire fence incloses the whole.

Before action on this report, the counsel for complainant informed the Board that negotiations were pending between the complainant and the road for an amicable adjustment of the difficulty which would doubtless take definite form within a few days, and asking that the Board would delay action on its part. This was under date of January 6, 1892.

Under date of March twenty-third, the Board is informed that all propositions which had been submitted by complainant to the road had been rejected, and application is made by the complainant for action upon the part of the Board.

The situation seems to be that by the passage of the railroad over the farm the acreage is so divided that about thirteen acres on the south is cut off from the body of the farm situated on the north of the tracks; that this thirteen acres is used for the pasturage of stock; that Flint creek is a small stream running across the northern portion of the farm, being the only available water on the farm for stock purposes and that it is impossible to reach the creek from the pasturage land without crossing the tracks; that to the east of the farm, passing through a deep cut, at a distance of about 900 to 1,200 feet, is a sharp curve in the railroad track bearing to the south, and that a train is not visible until it emerges from that cut. The time, therefore, of a train running fifty miles an hour from the point of the cut to the farm crossing, a distance of 900 feet, is just twelve seconds. The difficulty of moving stock across the tracks is apparent in this statement; it also appears that six crossings of the track must be made in the course of a day, and at times of the day when the passage of trains is most frequent.

In view of these facts and of the failure of the railroad company to accept the propositions that have been submitted, the Board deems it its duty to recommend, and it does recommend hereby that a cattle pass of eight feet wide, having seven feet headroom should be constructed at the farm crossing under the tracks.

By the Board.

XIX.

FRANCIS G. HALL v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

June 3, 1892.

This was a complaint that the fence on the line of the defendant company, from Almond station a mile and a half north was in such bad repair that cattle strayed upon the track. The complainant alleged that he had complained to the company and repairs had been promised, but the promises made were not fulfilled. He feared an accident in the near future accompanied by a loss of life to the traveling public and desired to divest himself of any responsibility by this complaint to the Board.

In answer the company announced that at the time of the making of the answer the materials for rebuilding the fence were on the ground, and that the work of rebuilding would be pushed to completion as rapidly as possible.

In reply he complained of the kind of fence. The company preferred a smooth wire fence which would not turn the smaller stock; he preferred a barbed wire fence which stock would not disturb because of the punishment it inflicted.

The Board directed the complainant's attention to section 32, chapter 565 of the Laws of 1890, defining a legal fence, and also to the clause providing that so long as such fences are not made and kept in good repair the corporation was liable to all damages done to any domestic animals on the tracks.

Subsequently the complainant informed the Board that the company had rebuilt the fence in a satisfactory manner.

By the Board.

XX.

IN THE MATTER OF THE RESIDENTS OF THE VILLAGE OF ATTICA v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

June 13, 1892.

Under date of February 17, 1892, the trustees of the village of Attica filed with the Board a petition asking for an undercrossing of the New York, Lake Erie and Western railroad at High street, and the erection of gates at the Main street crossing in that village. The petition was numerously signed and stated that at High street and at Main street, which are close together, flagmen were stationed in the daytime but not at night; and that the crossings were very dangerous. The company in its reply to the petition stated that it did not think it just that it should be called upon to build an underground crossing, but that it would be willing to provide gates at the crossings and have them operated both day and night. The village authorities would not accept this proposition and requested the Board to inspect the crossings.

On May 25, 1892, the Board met at Attica and made an inspection in company with the village authorities and representatives of the rail-

road company. The grade of High and Main streets, approaching the railroad tracks, is quite steep. The crossings are very near together, probably about sixty feet apart. There is some obstruction of the view of trains coming from the east. The Board, however, after careful consideration, does not feel justified in recommending the building of an underground crossing, but deems that gates properly constructed and operated would obviate the danger; especially is this so in view of the fact that within a month or six weeks the number of trains passing these crossings would be reduced at least forty per cent, the Lehigh Valley railroad, now using the Erie road, having nearly completed a line of its own which it expects to operate within that time. The company should, however, pave the streets for a short distance on each side of the tracks with cobble stones and in such a manner, if possible, as to reduce the grades; it seems to the Board that the grade of High street on the north of the tracks could be materially bettered by such paving.

RECOMMENDATIONS.

In view of the above facts, the Board recommends, first, — that suitable gates be erected by the New York, Lake Erie and Western Railroad Company at the High and Main street crossings in the village of Attica, such gates to be operated day and night by a man stationed in a tower sufficiently high to gain an unobstructed view of approaching trains; second, that the railroad company cause High and Main streets to be paved with cobble stones for a distance of thirty feet on each side of the railroad tracks, in the manner suggested above, upon obtaining permission so to do from the village authorities.

By the Board.

XXI.

STEPHEN G. DOOLITTLE v. THE DELAWARE AND HUDSON CANAL COMPANY.

June 30, 1892.

Stephen G. Doolittle, Highway Commissioner of the town of Colesville, county of Broome, was the complainant in this case. His affidavit set forth that there was in the town of Colesburg a highway known as the river road running from the village of Harpersville in said town to the village of Ninevah, and to the depot of Harpersville on the railroad known as the Albany and Susquehanna road, leased and operated by the Delaware and Hudson Canal Company, that the said highway runs in a general north and south direction between said villages, and about half way between crosses what is known as the Lovejoy brook upon a highway bridge about forty feet in length, that about fifty or sixty rods south of this bridge, the Ninevah branch of the railroad crosses the highway from the south and from the point of crossing to a point three or four rods north of the bridge, the railroad runs parallel to the present traveled track of said highway and so near that almost all of the railroad between the points mentioned is on the highway, an encroachment on the limits of the highway without warrant of law, as the road had never acquired legal rights

to it; that at the site of the Lovejoy bridge, immediately above it and within the limits of the highway, the railroad company without warrant of law has a full-deck bridge constructed on stone abutments fifty-five feet apart; that by reason of a flood a short time previous to the making of the complaint the highway bridge had been carried away and the abutments seriously undermined; that in violation of law the company, in its efforts to repair the bridge, intends to widen the space between its abutments so that they shall be eighty-four feet apart; that in so doing the channel of the creek will be widened and necessitate the widening of the space between the abutments of the highway bridge in its reconstruction, to the prejudice of the town of Colesburg to the extent of between one and two thousand dollars, which expense should be borne by the railroad or avoided by a change of the lines of the highway.

The reply of the railroad company was a denial that its tracks or bridge encroached upon the highway, that heretofore the railroad bridge has been a protection to the highway bridge, but that in the judgment of the chief engineer of the company an additional span to the bridge was necessary to security and the safe passage of trains. The railroad company respectfully represented that no obligation rested upon the company to bear any part of the expense of the new construction of the highway bridge.

The complainant replied denying the denial of the company and affirming his position.

The Board took the papers into consideration and after careful investigation determined that the question at issue was not within the jurisdiction of the Board, but one for the determination of the courts.

By the Board.

XXII.

IN THE MATTER OF THE COMPLAINT OF M. J. CUNNINGHAM AND OTHERS,
AGAINST THE NEW YORK LAKE ERIE AND WESTERN RAILROAD
COMPANY.

August 3, 1891.

This complaint, under date of March 27, 1891, was duly lodged with the Board, and set forth that the petitioners are now ready for shipping sixty cans of milk and upwards per day; that they have an ice-house filled sufficient with ice to last them during the hot weather, and that Underwood's Crossing is centrally located, having several roads leading into it: that Mr. Zinn, the milk agent of the railroad, represented to them that it was one of the best locations on the Delaware division of the Erie railroad to have a milk station; that the building was built largely or entirely for that purpose; that they will do all in their power to keep up the quantity of milk shipped and increase it by new shippers if they can; that Mr. Cunningham in good faith expended a considerable sum of money in constructing this building, relying upon assurances given to him by the representatives of the railroad company that they would stop and take milk there if he would give them twenty-five cans of milk per day that were not shipped at other stations; that the convenience and accommodation of a considerable number of shippers would be conserved by the maintenance of this station, and that relying upon

assurances thus given by the representatives of the road the building had been erected, water brought into it and a supply of milk cans furnished to complete the equipment of a milk station at this point, but that the railroad, after having stopped at this station for one month, had declined to stop and take their milk there any longer.

This complaint was in due course forwarded to the railroad company. An answer was received through John King, president, dated April 20, 1891, in which he states that the only grounds alleged in said petition why the prayer should be granted are that the nearest station either way is quite a distance from this one, and that great inconvenience and disadvantage would result to the people living in this locality, and prejudice and injury to the locality, and that the petitioners are anxious to ship all their milk whenever the railroad officials have their milk train stop at this station.

That it is to the interest of the railroad company to establish new stations for their milk train, and it is their desire to do so whenever practicable, because the establishment of these stations develops the dairy and agricultural business tributary to the road and leads to the improvement of the neighboring farms, but in the present instance the company has refused and does now refuse to establish and maintain a station and stopping place for its milk train at Underwood's Crossing for the following reasons, to wit: Because the accommodations which are now furnished by the railroad company are sufficient in all respects for the accommodation of the public; because the character of the railroad line at this point is such that the establishment of the proposed station would very seriously and unnecessarily endanger the lives of this company's passengers and employees and the safety of the property intrusted to its care; because the establishment of this station would unnecessarily interfere with, and perhaps destroy, other business interests at neighboring stations.

That the maintenance of this station for a period of nearly six weeks resulted in an increase of business for this company amounting to only five cans of milk per day; that it is evident, therefore, that there was and is now no legitimate business reason for the establishment of this station as far as the creation of new business is concerned.

That under date of August 24, 1889, Mr. Zinn, the representative of the road, heretofore referred to, wrote to Mr. Cunningham as follows: "In your talk with me last week you or your friends stated that we would receive the milk from 250 cows, that would not come to Sand Bank. This statement is contradicted by the farmers at Sand Bank, as they say we will not receive five cans more milk by having the station at Underwood's than we are receiving now. Unless you can show me the new shippers I cannot recommend that we stop at Underwood's Crossing."

In conclusion the company maintains that Mr. Cunningham has failed to show any good reason for the establishment of the proposed station, and requests that his petition be dismissed.

At the request of the petitioners one of the commissioners, on due notice to both sides, made a personal inspection of the locality and gave a hearing at Deposit, N. Y., on June 10th. Both sides were represented in person and by counsel, and a number of witnesses were examined. At the conclusion of the hearing, at the request of counsel

on both sides, twenty days was given in which to file briefs with the Board, with the understanding that if an oral summing up was desired by either side opportunity would be given at the office of the Commission in Albany. At the request of the counsel for the complainants, after both sides had submitted briefs, a hearing was set down and had before the full Board at Albany on the twenty-eighth of July.

From the evidence taken before one of the commissioners at Deposit and the statement made by the counsel of the complainants and of the road, it appears that a representative of the road had made a statement to the complainant that if he could be assured that the petitioners would furnish twenty-five cans of milk in addition to those now offered or shipped from other stations he would recommend that the road establish a permanent stopping place at Underwood's Crossing. But it also further appears that before the complainant had gone to much expense in the direction of establishing a "creamery" so-called, that he was notified by the same representative of the road that the company would not stop the train.

The complainant, however, proceeded notwithstanding this notice to erect a creamery, bring water into it and purchase a supply of cans as though he expected the train to stop and take the milk.

It appears that some months after the completion of the creamery the railroad company decided to take milk at this station for a period of one month, as it states, to ascertain whether the supply would be actually increased by twenty-five cans of new milk or not, that the result of this experiment, as accounted by them, was that the supply was only increased by about five cans. On the contrary, the complainant makes affidavit that the supply of milk was steadily increasing while the stop was made at Underwood's from day to day and that when the train service was discontinued that they were furnishing the road with a good deal more than twenty-five additional cans of milk.

The company seemed to have abandoned the idea that it would be dangerous to stop at this station, from the fact that they did actually stop and make an experimental test for thirty days, and had it been satisfactory they proposed to make it a permanent station for the shipment of milk.

Underwood's Crossing is situated between Oquaga, milk station, on the east, and Gulf Summit, milk station, on the west. Oquaga station is distant from Underwood's 1.38 miles; Gulf Summit is distant from Underwood's 2.33 miles, and ordinarily it might not be maintained that it is a hardship for the farmers in the neighborhood of Underwood's Crossing to haul their milk to the station at Oquaga which is 1.38 miles distant, or to haul their milk to Gulf Summit station which is 2.33 miles distant. It may be said, however, that some of the roads leading to these stations are impassable in winter on account of the drifting of the snow, and that the country around about these stations is excessively hilly and difficult of travel.

It would not be deemed just and reasonable to compel a railroad company to multiply its stations to such an extent as to be onerous or burdensome to accommodate every applicant; at the same time it is plainly for the interest of the road to aid by every means in its power to build up and develop the territory tributary to it. In this particular case it would seem that the road had committed itself to the

policy of stopping at Underwood's Crossing if an additional amount of shipments could be obtained, and from the fact that the testimony before the Board was very conflicting in regard to just how many additional cans of milk were obtained from stopping at Underwood's Crossing, the Board is of the opinion that the road should give an opportunity to satisfactorily demonstrate whether sufficient shipments can be obtained from stopping at Underwood's Crossing, which will warrant it in continuing the service.

RECOMMENDATIONS.

The Board recommends that the New York, Lake Erie and Western railroad company stop its milk train at Underwood's Crossing for a period of sixty days in order to satisfactorily determine whether enough additional cans of milk, not shipped at other stations, can be obtained to warrant it in giving permanent service at this station.

By the Board.

APPLICATIONS FOR CHANGE OF MOTIVE POWER.

I.

In the matter of the application of the Yonkers Railroad Company for approval of the board of a change of motive power from horses to the overhead electric trolley system.

December 20, 1891.

This application, dated December 7, 1891, was lodged with the board.

It appears that the Yonkers Railroad Company was organized in 1886; that on February 8, 1886, the common council gave its consent to the construction of the railroad upon a number of streets, and that the consent of the abutting property holders was also obtained to operate the road by any power other than steam; that the company's tracks are built to the extent of about six and one half miles, while its franchise extends over sixteen miles of streets; that on the six and one half miles built the company is at present operating by horses.

That on the 21st of December, 1891, the common council passed a resolution approving of a change of motive power from horses to the overhead electric system on all the lines of railroad covered by the franchise except upon North Broadway from Getty square to Dock street and upon Warburton avenue from the north line of the Manor Hall property to the north of the old village of Yonkers, with certain conditions attached thereto, which conditions have been duly accepted by the railroad company.

It also appears from affidavits filed with the board that the total assessed value of abutting property upon the line of the road is \$5,088,350 of which the company has obtained consents to the amount of, \$3,353,070.

Due notice of a public hearing was advertised in the press of Yonkers and such hearing was held at the Chamber of Commerce, New York city, on Tuesday, December 22, 1891. No opposition to the approval of the board has been made either in person or by letter at any time.

The question has arisen under the above state of facts whether the consent of this board to the change of motive power is necessary.

The board is of the opinion, however, that the language of section 12 of the general street railroad act of 1884, *i. e.*, chapter 252, as re-enacted into section 100 of the new railroad law, being chapter 565 of the Laws of 1890, requires the approval of the Board before this company can legally operate its road in the way it proposes. In this conclusion the Board is supported by the opinion of the attorney-general in the case of the application of the Amsterdam Street Railroad Company for the approval of the Board of a change of motive power, an analogous case, the opinion in question being dated April 16, 1891.

In view of the above facts the Board deems that it is justified in approving and does hereby approve of a change of motive power from horses to the overhead electric trolley system on all that portion of the

line of the Yonkers Railroad Company covered by its original franchise (a copy of which is hereto annexed) heretofore actually constructed or to be constructed, except upon North Broadway from Getty Square to Dock street and upon Warburton avenue from the north line of the Manor Hall property to the north line of the old village of Yonkers; this approval, however, is made upon the conditions prescribed in the resolution of the common council dated December 21, 1891, and upon the further condition that the company shall conform to the following requirements.

First. The rate of speed shall not exceed that to be reasonably fixed by the local authorities of the city of Yonkers.

Second. No car shall be run with less than two men to operate it.

Third. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, inductions or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone, or other wires.

Fourth. The company shall construct a longitudinal wire, termed a guard wire, over the trolley or feed wire so as to prevent broken telegraph, telephone or other wires coming in contact with the said trolley wire.

By the Board.

Copy of statement of the route of the Yonkers Railroad Company made to the Board of Railroad Commissioners in its application of a change of motive power, being the route in the original franchise of the company as granted by the common council, February 8, 1886, the same being certified to by John Pagan, Jr., city clerk:

Beginning at a point on Main street southerly of the bridge which crosses the tracks of the New York Central and Hudson River Railroad Company and westerly of Beuna Vista avenue and easterly of the track of said company, and running thence along said Main street easterly, or nearly so, but in the direction of said street, to a point in said city known as Getty square, being at the junction of Main street, Palisade avenue and Broadway; thence northeasterly to and along Palisade avenue but in the direction of said avenue to Elm street; thence easterly along Elm street to Nepperhan avenue; thence northeasterly along said Nepperhan avenue and in the direction of said street to a point on said avenue where it meets Yonkers avenue, at which point said road will branch as follows:

One branch continuing along Nepperhan avenue to and across Ashburton avenue to a point on Nepperhan avenue just north of the carpet works but not beyond Lake avenue. The other of the said branches starting from the junction of Nepperhan avenue with said Yonkers avenue and continuing along Yonkers avenue to the depot of the New York City and Northern Railroad Company; and thence along said Yonkers avenue in a direction easterly but in the direction of said street to a point on said avenue, where the westerly line of the village of Mount Vernon and the easterly line of the city of Yonkers crosses said avenue.

Also a branch road from Getty square southeasterly to and along Main street to Nepperhan avenue, at which point said road branches, one branch continuing along Main street easterly but in a direction of said street to south Broadway to Ludlow street; thence westerly along

Ludlow street to Hawthorne avenue; thence southerly along Hawthorne avenue to Pier street, and thence westerly along Pier street to the station at the foot of said street called Ludlow. The other of said branches continuing from Main street to and along Nepperhan avenue in the direction of said avenue to Elm street.

Also a branch running southerly from the corner of Main street and Riverdale avenue to and along Riverdale avenue to a point where the south line of the city of Yonkers crosses said Riverdale avenue.

Also a branch running north from the corner of Main street and Warburton avenue to and along Warburton avenue to a point in said Warburton avenue where it is crossed by the north line of the city of Yonkers; said Warburton avenue and Riverdale avenue branches being connected at Main street.

Also branch road from Getty square northwesterly to and along North Broadway to Dock street and running westerly along Dock street to Warburton avenue and continuing westerly along Dock street to Woodworth avenue; thence northerly, but in the direction of said last mentioned avenue, along said Woodworth avenue to the most northerly portion of said avenue.

II.

IN THE MATTER OF THE APPLICATION OF THE CONEY ISLAND AND BROOKLYN RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD SINGLE TROLLEY ELECTRIC SYSTEM ON THAT PORTION OF ITS ROAD FROM NINTH AVENUE AND NINTH STREET OVER AND ALONG NINTH, HUNTINGTON AND SMITH STREETS AND HAMILTON AVENUE TO HAMILTON FERRY IN THE CITY OF BROOKLYN.

January 12, 1892.

This application, dated December 19, 1891, was lodged with the Board. After due notice in the press of Brooklyn a public hearing was had at the common council chamber in the city of Brooklyn January 6, 1891. The railroad company was represented by General H. W. Slocum, president, and William N. Dykeman, counsel. No one appeared in opposition either in person or by letter.

Affidavits were submitted by Dominick H. Roche, secretary of the board of assessors, to the following effect:

Total assessed valuation of property on line of road on	
Ninth street from Ninth avenue to Hamilton avenue..	\$1,813,770
Consents of abutting property-holders	910,800
Total assessed value of property on Hamilton avenue from	
Ninth street to Hamilton avenue ferry	1,216,750
Consents of abutting property-holders.....	865,820
Total assessed value of property on Smith street from	
Ninth street to Huntington street	82,900
Consents of abutting property-holders	67,100
Total assessed value of property on Huntington street	
from Smith street to Hamilton avenue	198,750
Consents of abutting property-holders.....	110,650

The common council in its resolution of December 21 also gave its consent to the proposed change of motive power.

In view of the above facts and for the reasons stated in the application of the same company for the approval of a change on that portion of its route from the north side of the Circle to Ninth avenue and Ninth street, the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Coney Island & Brooklyn Railroad Company from horses to the overhead single trolley electric system on that portion of its route above designated, upon the same conditions and with the same requirements as are attached to the approval granted by this Board this same day for a change of motive power upon that portion of this company's road from the north side of the Circle to Ninth avenue and Ninth street.

By the Board.

III.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN CITY AND NEWTOWN RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD SINGLE TROLLEY ELECTRIC SYSTEM.

January 12, 1892.

This application, dated November 23, was lodged with the Board. After due advertisement in the press of Brooklyn, a public hearing was had at the common council chamber in the city of Brooklyn January 6, 1892. The railroad company was represented by John N. Partridge, president. No opposition was made either in person or by letter.

Affidavits of Dominick H. Roche, secretary of the board of assessors of the city of Brooklyn, as to the consents of the abutting property holders as compared with the total assessed valuation on the line of the road, were submitted, to the following effect :

	Assessed valuation.	Consents obtained.
Water street, from Fulton to Washington street.....	\$853,000	\$766,500
Fulton street, from Water to Front street,	425,400	415,000
Front street, from Fulton to Washington street.....	381,500	245,500
Washington street, from Water to Fulton street.....	2,714,300	2,055,000
Fulton street, from Washington to Dekalb avenue.....	6,179,700	3,605,500
Dekalb avenue, from Fulton to Wyckoff avenue.....	4,691,740	2,706,070
	<u>\$15,245,640</u>	<u>\$9,793,570</u>

From this table it will be seen that the total assessed value of property on the line of the route is \$15,245,640, of which the company have secured consents aggregating \$9,793,570.

At a meeting of the common council held Monday, December 21, 1891, resolutions were passed approving of the proposed change of motive power.

In view of the above recited facts and for the same reasons set forth in the decision of the Board in the application of the Coney Island and Brooklyn Railroad Company for approval of a change of motive power of this date, the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Brooklyn City and Newtown Railroad Company from horses to the overhead single trolley electric system on that portion of its route on Water street from Fulton street to Washington street, on Fulton street from Water street to Front street, on Front street from Fulton street to Washington street, on Washington street from Water street to Fulton street, on Fulton street from Washington street to Dekalb avenue, on Dekalb avenue from Fulton street to Wyckoff avenue, with the following conditions, however, which are made part of this approval:

First. The company shall conform to all the requirements set forth in the resolutions of the common council of December 21, 1891.

Second. The company shall construct a longitudinal guard wire over the trolley wire so as to prevent broken telephone, telegraph or other wires from coming in contact with the trolley wire.

Third. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels coming within two inches of the track to prevent persons being run over.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires through leakage, induction or otherwise from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires.

Fifth. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed.

By the Board.

IV.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN CITY RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD, OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD SINGLE TROLLEY ELECTRIC SYSTEM.

January 26, 1892.

This application, dated November 23, 1891, was lodged with the Board.

After due notice in the press of Brooklyn, a public hearing was had at the common council chamber, in the city of Brooklyn, January 6, 1892. The railroad company was represented by Daniel F. Lewis, president, and H. M. Thompson, secretary. The company claimed to have the consents of a large majority in value of the abutting property holders. Protests were received, however, on behalf of property holders on Green avenue, presented by Mr. George Wilson, and by property holders on Grand street, presented by Lewis Kelicher. It

being claimed that there were a number of withdrawals, an opportunity was given to the contestants to present withdrawals of consents, duly verified, to be filed with the Board by Monday, January 18. A number of withdrawals were filed at that time, but not sufficient in amount to reduce the company's consents below one-half, as required by statute.

The total number of miles of railroad of this company with regard to which a change of motive power is proposed, is..... 83.75
Miles of second track 76.00
Sidings, etc. 16.25

Total track mileage 176.00

The system of railroads is divided by the company into a number of different routes as hereinafter enumerated.

Affidavits are submitted by Dominick H. Roche, Secretary of the Board of Assessors of the city of Brooklyn, E. C. McCall, Assessor of the town of Flatbush, and James P. Rapelye, Secretary of the Board of Assessors of the town of Newtown, showing the company to have procured the consents of a majority in value of the abutting property holders, including the consent of the city of Brooklyn as a property holder, upon each of the routes. The figures are so voluminous that the Board does not insert them, further than to say that the total assessed valuation of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed, is \$143,379,115, one-half of which is \$71,689,557; the company has procured consents amounting to \$78,346,800, or \$8,657,243 over and above a majority upon the whole system.

It is to be borne in mind that the statute providing for a change of motive power, *i. e.*, section 100, chapter 565 of the laws of 1890, read as follows: "Any street surface railroad may operate any portion of its road by animal or horse power, or by cable, electricity or any power other than locomotive steam power, which may be approved by the State Board of Railroad Commissioners, and consented to by the owners of one-half of the property bounded on *that portion of the railroad* with respect to which a change of motive power is proposed." The section differs from the provision governing the consent of property holders to an original railroad laid out, in which case, in conformity with the Constitution, the consent of a majority in value of abutting property holders on each *street* has to be obtained. (See decisions of Board of R. R. Com. in application of the Harlem Bridge, Morrisania & Fordham R. R. Co., March 17, 1891, and Utica Belt Line St. R. R. Co., Sept. 30, 1889). In the case under consideration there are some streets, although few, where the company has not secured a majority of the consents, the excess over a majority, however, on the system as a whole, and, indeed, upon each route, confers upon the company the right to change its motive power so far as the consents of abutting property holders are concerned. The Board would not feel justified in withholding its approval in consequence of the protests or dissents of property holders upon certain streets, in view of the fact that the road has complied with the requirements of the law as to the consents of property holders upon the entire line of its road.

At a meeting of the common council held December 21, 1891, resolutions were passed approving of the proposed change of motive power, which were repassed January 11, 1892, and have become a city ordinance. These resolutions make certain requirements as conditions to the approval of the local authorities.

In view of the above recited facts and for the reasons given heretofore in similar applications by horse railroad companies of the city of Brooklyn, the Board deems that it is its duty to approve and does hereby approve of a change of motive power by the Brooklyn City Railroad Company from horses to the overhead single trolley electric system, on all that system of its road hereinafter particularly enumerated, with the following conditions, however, which are made part of this approval:

First. The company shall conform to all the requirements set forth in the resolutions of the common council of January 11, 1892.

Second. The company shall construct a longitudinal guard wire over the trolley wire so as to prevent broken telephone, telegraph or other wires coming in contact with the trolley wire.

Third. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels, coming within two inches of the track, to prevent persons being run over.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires.

Fifth. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed.

ROUTES OF THE BROOKLYN CITY RAILROAD COMPANY AS TO WHICH THE APPROVAL HEREINBEFORE GIVEN APPLIES:

GREENPOINT ROUTE.

Fulton street from the East river to Myrtle avenue; Myrtle avenue from Fulton street to Classon avenue; Classon avenue from Myrtle avenue to Kent avenue; Washington from Myrtle avenue to Kent avenue; Kent avenue from Hewes street to Franklin street; Franklin street from Kent avenue to Commercial street; Commercial street from Franklin street to Newtown creek.

FLUSHING AVENUE ROUTE.

Fulton street from East river to Sands street; Sands street from Fulton street to Navy street; Navy street from Sands street to Flushing avenue; Hudson avenue from Sands street to Nassau street; Nassau street from Hudson avenue to Flushing avenue; Flushing avenue from city line to Metropolitan avenue; Graham avenue from Broadway to Van Cott avenue; Van Cott avenue from Graham avenue to Manhattan avenue; Manhattan avenue from Van Cott avenue to Greenpoint avenue; Greenpoint avenue from Manhattan avenue to East river.

MYRTLE AVENUE ROUTE.

Fulton street from the East river to Myrtle avenue; Myrtle avenue from Fulton street to the city line.

GATES AVENUE ROUTE.

Fulton street from the East river to Greene avenue; Greene avenue from Fulton street to Franklin avenue; Franklin avenue from Greene avenue to Gates avenue; Gates avenue from Franklin avenue to Myrtle avenue; Myrtle avenue from Gates avenue to Wyckoff avenue; Wyckoff avenue from Myrtle avenue to the city line; on Wyckoff avenue from Myrtle avenue; on Willow street from Wyckoff avenue.

PUTNAM AVENUE ROUTE.

Fulton street from the East river to Putnam avenue; Putnam avenue from Fulton street to Nostrand avenue; Nostrand avenue from Putnam avenue to Halsey street; Halsey street from Nostrand avenue to Broadway.

FULTON AVENUE ROUTE.

Fulton street from the East river to Alabama avenue; Alabama avenue from Fulton street to Atlantic avenue.

FLATBUSH AVENUE ROUTE.

Fulton street from the East river to Flatbush avenue; Flatbush avenue from Fulton street to the city line; Flatbush avenue from the city line to the Flatlands boundary line.

THIRD AVENUE ROUTE.

Fulton street from the East river to Flatbush avenue; Flatbush avenue from Fulton street to Third avenue; Third avenue from Flatbush avenue to the city line.

COURT STREET ROUTE.

Fulton street from the East river to Court street; Court street from Fulton street to Hamilton avenue; Hamilton avenue from Court street to Third avenue; Third avenue from Hamilton avenue to Twenty-fifth street; Fifth avenue from Twenty-fourth to Twenty-fifth street; Twenty-fourth street from Third avenue to Fifth avenue; Twenty-fifth street from Third avenue to Fifth avenue.

HAMILTON AVENUE ROUTE.

Hamilton avenue from the East river to Third avenue; Third avenue from Hamilton avenue to Twenty-fourth street.

FURMAN STREET ROUTE.

Furman street from Fulton street to Atlantic avenue; Atlantic avenue from Furman street to Columbia street; Columbia street from Atlantic avenue to Sackett street; Sackett street from Columbia street to Hamilton Avenue Ferry.

TOMPKINS AVENUE ROUTE.

Broadway from the East river to Roebling street; Roebling street from Broadway to Division avenue; Division avenue from Roebling street to Harrison avenue; Harrison avenue from Division avenue to

Flushing avenue; Tompkins avenue from Flushing avenue to Fulton street; Fulton street from Tompkins avenue to Kingston avenue; Kingston avenue from Fulton street to Bergen street; Fulton street from Tompkins avenue to Nostrand avenue; Nostrand avenue from Fulton street to Malbone street.

BUSHWICK ROUTE.

Broadway from the East river to Bedford avenue; Bedford avenue from Broadway to South Fourth street; South Fourth street from Bedford avenue to Meserole street; Meserole street from South Fourth street to Bushwick avenue; Bushwick avenue from Meserole street to Myrtle avenue; Myrtle avenue from Bushwick avenue to the city line.

CYPRESS HILLS ROUTE.

Cypress Hills road from St. Nicholas avenue to the Jamaica town line; St. Nicholas avenue from Palmetto street to Myrtle avenue; Myrtle avenue from St. Nicholas avenue to Cypress avenue.

LUTHERAN ROUTE.

Through private property from Myrtle avenue, Wyckoff avenue and Palmetto street, to Metropolitan avenue.

CROSTOWN ROUTE.

Manhattan avenue from Newtown creek to Van Cott avenue; Van Cott avenue from Manhattan avenue to Bedford avenue; Bedford avenue from Van Cott avenue to Broadway; Driggs avenue from Van Cott avenue to Broadway; Broadway from Driggs avenue to Kent avenue; Kent avenue from Broadway to Washington avenue; Washington avenue from Kent avenue to Park avenue; Park avenue from Washington avenue to Navy street; Navy street from Park avenue to Willoughby street; Raymond street from Park avenue to Willoughby street; Willoughby street from Raymond street to Fulton street; Joralemon street from Fulton street to Court street; Court street from Joralemon street to Atlantic avenue; Columbia street from Atlantic avenue to Woodhull street; Woodhull street from Columbia street to Hamilton avenue; Richards street from Hamilton avenue to the Erie Basin.

UNION AVENUE ROUTE.

Greenpoint avenue from the East river to Manhattan avenue; Manhattan avenue from Greenpoint avenue to Van Cott avenue; Union avenue from Van Cott avenue to Broadway; Broadway from Union avenue to Throop avenue; Throop avenue from Broadway to Park avenue; Flushing avenue from Throop avenue to Knickerbocker avenue; Knickerbocker avenue from Flushing avenue to Myrtle avenue; Myrtle avenue from Knickerbocker avenue to city line; Box street from Manhattan avenue to Oakland street; Oakland street from Box street to Van Cott avenue; Van Cott avenue from Oakland street to Union avenue.

CALVARY ROUTE.

Greenpoint avenue from the East river to Newtown creek; Newtown creek to Calvary cemetery (Bradley avenue).

NOSTRAND AVENUE ROUTE.

Broadway from the East river to Driggs avenue; Driggs avenue from Broadway to Division avenue; Division avenue from Driggs avenue to Lee avenue; Lee avenue from Division avenue to Flushing avenue; Nostrand avenue from Flushing avenue to Malbone street; Malbone street from Nostrand avenue to Flatbush avenue.

COUNTY BUILDINGS ROUTE.

Malbone street from Nostrand avenue to Canarsie road and thence to Canarsie lane.

LORIMER STREET ROUTE.

Greenpoint avenue from the East river to Franklin street; Franklin street from Greenpoint avenue to Meserole avenue; Meserole avenue from Franklin street to Manhattan avenue; Manhattan avenue from Meserole avenue to Nassau avenue; Nassau avenue from Manhattan avenue to Lorimer street; Lorimer street from Nassau avenue to Broadway Gwinnet street from Broadway to Nostrand avenue; Nostrand avenue from Gwinnet street or Flushing avenue to Park avenue.

GRAND STREET ROUTE.

Grand street from Kent avenue to Newtown creek; Humboldt street from Grand street to Meeker avenue; Meeker avenue from Humboldt street to Newtown creek.

The above is intended to include all of the routes of the Brooklyn City Railroad Company now built and operated by it.

By the Board.

V.

IN THE MATTER OF THE APPLICATION OF THE ATLANTIC AVENUE RAILROAD COMPANY OF BROOKLYN, FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRIC TROLLEY SYSTEM UPON CERTAIN PORTIONS OF ITS ROUTE.

March 14, 1892.

This application, dated February 1, 1892, was lodged with the Board. After due notice in the press of Brooklyn a public hearing was had at the common council chamber in Brooklyn on February twenty-fourth. The company was represented by William Richardson, president, and Albert Boardman, counsel. No one appeared in opposition to the change on any of the streets named in the application.

After discussion at the hearing in regard to the consents of the abutting property holders, the Board decided that the company should furnish an affidavit by some competent person connected with the tax office or the board of assessors of the city of Brooklyn, showing the total valuations of the property along the streets as to which approval of a change of motive power is applied for, and also the value of the abutting property, the owners of which have consented to the change. The company duly forwarded to the Board, at its office in Albany, the

affidavit of Dominick H. Roche, secretary of the board of assessors of the city of Brooklyn, to the effect that the total assessed valuation of property on such streets is \$18,835,210; and, also, that the persons consenting are the owners of property along said streets and avenues, the assessed value of which amounts to \$9,640,220, as shown on the assessment rolls.

It also appears, that at a meeting of the common council held December 21, 1891, resolutions were passed approving of the proposed change of motive power, which were repassed January 11, 1892, and have become a city ordinance. These resolutions make certain requirements as conditions of the approval of the local authorities.

In view of the above recited facts, and for the reasons heretofore given in similar applications by horse railroad companies of the city of Brooklyn, the Board deems that it is its duty to approve and does hereby approve of a change of motive power by the Atlantic Avenue Railroad Company from horses to the overhead single trolley electric system on all that system of its road on the following streets, to wit: Central avenue from Jefferson street to the city line; Adams street from Fulton street to Water street; Atlantic avenue from South Ferry to Washington avenue; Boerum place and Court square from Bergen street to Fulton street; Bergen street from Boerum place to Hoyt street; Butler street from Washington avenue to New York avenue; Concord street from Adams street to Washington street; Fifth avenue from Twenty-seventh street to Atlantic avenue; Front street from Fulton street to Adams street; Fulton street from Front street to Fulton Ferry; Hicks street from Hamilton avenue to Atlantic avenue; Hoyt street from Sackett street to Bergen street; Sackett street from Columbia street to Hoyt street; Water street from Adams street to Fulton street; Washington street from Concord street to Water street; Washington avenue from Atlantic avenue to Butler street, covering the Central avenue route; the Butler street and Washington avenue route to South Ferry; the Fifth avenue route from Twenty-seventh street to Atlantic avenue and South Ferry; the Hicks street crosstown routes; and the Hoyt street crosstown routes, with the following conditions, however, which are made part of this approval:

First. The company shall conform to all the requirements set forth in the resolutions of the common council of January 11, 1892.

Second. The company shall construct a longitudinal guard wire over the trolley wire so as to prevent broken telephone, telegraph or other wires coming in contact with the trolley wire.

Third. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels coming within two inches of the track to prevent persons being run over.

Fourth. The company shall take all reasonable means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires.

Fifth. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed.

By the Board.

VI.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA FALLS AND SUSPENSION BRIDGE RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRIC TROLLEY SYSTEM ON CERTAIN PORTIONS OF THE ROUTE.

March 22, 1892.

This application was duly lodged with the Board. After due notice in the press of Niagara Falls and Suspension Bridge, a public hearing was had at the office of the Board, in Albany, Tuesday, March 22, 1892. The railway company was represented by Mr. Eugene Cary. There were no other appearances in person or by letter in opposition. An affidavit of John C. Jenny, village clerk of the village of Suspension Bridge, was presented to the Board, to the effect that he had carefully examined the last village assessment roll of said village and had found that the total assessed valuation of the property bounding on such portion of Lewiston avenue in said village, on which the railway is now operating, was \$275,350, and that the total assessed valuation of the property, the owners of which had given their consent to the proposed change, was \$163,400. The affidavit of Hans Neilson, one of the assessors of the village of Niagara Falls, was also presented, showing that he had examined the assessment rolls of said village and had found that the assessed valuation of the property bounding on that portion of Falls street, of Second street and of Ontario street in said village, on which said railway company is operating its road, and on which it desires to change its power, amounted to \$791,350, and that the total assessed valuation of the property, on the line of the road, of the owners consenting to the change was \$415,480.93. On the whole route, therefore, the affidavits show the total assessed valuation is, in Niagara Falls, \$791,350, in Suspension Bridge \$275,350; total, \$1,066,700. The total valuation of the consenting property is, in Niagara Falls, \$415,480.93, in Suspension Bridge \$163,400; total, \$577,880.93. One-half of the total assessed valuation is \$533,350, an excess over one-half of \$44,530.93. It, therefore, appears, on the prima facie showing of consents, that the company has a clear majority of consents, of over one-half of \$44,530.93. It also appears the trustees of the village of Niagara Falls had, upon application, also given their consent to the proposed change. A similar application had been made to the trustees of the village of Suspension Bridge, but before the application could be acted upon by such trustees, by the act of the Legislature, the functions of such trustees ceased, under an act of incorporation of the two villages into a city.

In view of the above facts the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Niagara Falls and Suspension Bridge Railway Company, from horses to the overhead electric trolley system upon that portion of its road on Falls street, in the village of Niagara Falls, from Canal street, in said village, easterly along said Falls street to Second street; thence northerly along Second street to Ontario street; thence northeasterly along said Ontario street to its intersection with Lewiston avenue in the village of Suspension Bridge; thence northerly along Lewiston

avenue to a point near the crossing of said avenue, by the track of the New York Central and Hudson River Railroad Company, forming a continuous line from said point of beginning on Falls street, near Canal street, to the point of termination on said Lewiston avenue, with the following conditions, which are made a part of this approval:

First. The rate of speed shall not exceed that to be reasonably fixed by the local authorities of the city of Niagara Falls.

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as not to impair the use and appearance thereof to the least possible extent; and before erection shall be approved by the mayor and common council.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise. This provision, however, is not intended to require the railway company to construct a double trolley wire.

Fifth. The company shall conform to all reasonable requirements of the local authorities heretofore or hereafter legally imposed by said authorities.

By the Board.

VII.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN CITY AND NEWTOWN RAILROAD COMPANY FOR APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD SINGLE TROLLEY ELECTRIC SYSTEM ON ITS FRANKLIN AVENUE ROUTE.

March 22, 1892.

This application, dated January 23, 1892, was duly lodged with the Board.

After due notice in the press of Brooklyn a public hearing was had in the common council chamber in the city of Brooklyn, on Wednesday, February 3, 1892. The railroad company was represented by Mr. John N. Partridge, president, and Mr. S. S. Whitehouse, counsel. The opposition, which was quite formidable, was represented by Alanson Treadwell and others. At the request of the protestants the hearing was adjourned to February twenty-third at the Railroad Commissioners rooms at Albany, and it was ordered that a list of the consents should be filed in the county clerk's office in order that the protestants might have a suitable opportunity to examine as to the sufficiency thereof.

At the hearing in Albany on the twenty-third of February, and at an adjourned hearing on March seventh at the same place, the evidence offered by the applicant and the protestants, as to the status of the property holders abutting on the line of the route on which approval of a change of motive power is applied for, was very confusing. The Board was unable to arrive at a satisfactory conclusion in regard to the exact situation touching the consents of property owners, and it

was then ordered that the protestants make reply to the paper presented by the company, that they should send a copy of the reply to the company on the following Monday, and that one week from that day, briefs and affidavits from both sides on the question of consents to be filed with the Board, and that no further oral hearing in the matter be had. Agreeably to this order of the Board, briefs were filed on the twenty-first day of March, reciting the history of the case in detail and submitting tables showing the value of abutting property on the line of the route, the value of the property consenting originally, the value of withdrawals of consents and the value of revocations of withdrawals.

Were the Board to determine absolutely in each disputed instance the sufficiency of the consents or withdrawals, much testimony would be required, and were the decision of the Board to be conclusive in the matter the Board would hesitate ere it decided the case on the papers presented. The decision of the Board as to the sufficiency of consents, however, does not interfere with the legal rights of the property owners. The Attorney General in a communication to the Board, referring to a similar application, says: "I may also say that while the consent of your Board is necessary in order that the change proposed may be made at all, the giving of it does not in the least destroy or injure the rights of the property-owners interested. The corporation can obtain no rights to change its motive power without complying with the law."

The law confers no power upon the Railroad Commissioners to decide as to the sufficiency of consents, that question being left entirely for determination by the courts. The Board has, however, in the past, required that the applicant shall make a *prima facie* showing that they have obtained a majority in value of consents of abutting property-holders to a change of motive power before the Board would consider their application. This rule was complied with by the applicants in their communication of January 23, 1892, in which they show that the consents in excess of one-half to the extent of \$320,000 were obtained; and after considering the amount of withdrawals and revocations of withdrawals, the statement is made in the last communication of the applicant, filed with the Board this day, that they now have consents amounting to \$84,532 in excess of one-half the assessed value of the property on the streets and avenues in question. In addition to this apparent majority of consents of property-owners, the common council of the city of Brooklyn on the 21st of December, 1891, passed resolutions approving of the proposed change of motive power upon the Franklin avenue route, which were repassed on January 11, 1892, and have become a city ordinance.

In view of the above recited facts, and for the reasons given heretofore in similar applications by horse railroad companies of the city of Brooklyn, the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Brooklyn City and Newtown Railroad Company from horses to the overhead single trolley electric system on its Franklin avenue route, as follows: Grand street from the East river to Kent avenue; South Eighth street from Kent avenue to Wythe avenue; South Ninth street from Kent avenue to Wythe avenue; Wythe avenue from South Eighth street to Wallabout street; Franklin avenue from Wallabout street to city line; Franklin

avenue from city line to Malbone street; Malbone street from Franklin avenue to Flatbush avenue, with the following conditions, however, which are made part of this approval:

First. The company shall conform to all the requirements set forth in the resolutions of the common council of January 11, 1892.

Second. The company shall construct a longitudinal guard wire over the trolley wire, so as to prevent broken telephone, telegraph or other wires coming in contact with the trolley wire.

Third. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels coming within two inches of the track to prevent persons being run over.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires.

Fifth. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed.

By the Board.

VIII.

IN THE MATTER OF THE APPLICATION OF THE CONEY ISLAND AND BROOKLYN RAILROAD COMPANY FOR A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY, OVER AND ALONG SMITH, JAY, PROSPECT AND MAIN STREET TO CATHERINE FERRY, AND WATER STREET TO FULTON FERRY, IN THE CITY OF BROOKLYN.

March 31, 1892.

This application was filed with the Board on March 16, 1892. After due notice in the press of Brooklyn, a public hearing was had on Tuesday, March 29th, in the chamber of the common council in the city of Brooklyn. The railroad company was represented by H. W. Slocum, Jr., and William N. Dykman, counsel. No one appeared in opposition, nor has the Board received any communication opposed thereto.

An affidavit of Dominick H. Roche, secretary of the board of assessors of the city of Brooklyn, was presented, setting forth that the total assessed valuation of the property on the line of that portion of the route on which the change is applied for is \$5,283,700, and that the parties consenting to the proposed change are owners of property along said route, the assessed valuation of which is \$2,749,500 an excess of \$107,650. The original consents were also presented to the Board for inspection.

In view of the above facts the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Coney Island and Brooklyn Railroad Company from horses to the overhead electric trolley system upon that portion of its railroad on Smith street from Ninth street to Fulton street; on Jay street from Fulton street to Prospect street; on Prospect street from Jay street to Main street; on Main street from Prospect street to Catherine Ferry; on Water street from Main street to Fulton street, with the following conditions however, which are made a part of this approval:

First. The company shall construct a longitudinal guard wire over the trolley wire so as to prevent broken telephone, telegraph or other wires coming in contact with the trolley wire.

Second. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels coming within two inches of the track to prevent persons being run over.

Third. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise from interfering with the wires of other companies, whether telegraph, telephone or other wires.

Fourth. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed. By the Board.

IX.

IN THE MATTER OF THE APPLICATION OF THE JOHNSTOWN, GLOVERSVILLE AND KINGSBORO RAILROAD COMPANY FOR A CHANGE OF MOTIVE POWER.

April 11, 1892.

This application was duly made to the Board of Railroad Commissioners after due notice, and a public hearing was had at the office of said Board on Monday, April 11, 1892, at 10 A. M. The railroad company appeared by Frank Burton, as counsel, and L. Caten, superintendent. The city of Gloversville appeared by E. A. Spencer, as counsel, and the village of Johnstown by E. Bayliss and C. H. Ball, a committee from the board of trustees.

Counsel for the railroad company offered in evidence due proof of the publication of the notice of hearing in the daily papers published at Johnstown and Gloversville. The affidavits of Alexander D. Comrie, dated March 31 and April 2, 1891, showing the total amount of the assessed valuation of the property along the line of said road, viz., \$986,550, and the total amount of consents of abutting property owners obtained by the company, viz., \$515,525. Also a similar affidavit by Daniel Stewart, dated March 31, 1892, the affidavit of Lawton Caten, dated March 31, 1892, as to the location of the route, the affidavit of Lyman K. Brown, dated April 2, 1892, in reference to the total amount of consents of abutting property owners in both towns, showing an excess over one-half of \$22,250; also a permit granted by the board of trustees of the village of Johnstown, dated January 7, 1874, granting certain rights to the applicant, a deed of the commissioners of highways of the town of Johnstown, dated December 16, 1873, and recorded in the Fulton county clerk's office, December 17, 1873; also a deed of the Cayadutta Plankroad Company to applicant, dated July 2, 1874, and recorded in the Fulton county clerk's office September 8, 1874.

After reading and filing the affidavits and papers submitted, and after hearing Mr. Burton, counsel for the applicant, and Messrs. Bayliss, Ball and Spencer, representing the village of Johnstown and the city of Gloversville,

Ordered: That the application by the Johnstown, Gloversville and Kingsboro Railroad Company, for a change of motive power from

horse to the overhead electric trolley system be and hereby is granted on the following conditions, which are made a part hereof:

First. The rate of speed shall not exceed that to be reasonably fixed by the local authorities having control of the streets and highways through which the railroad runs.

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as not to impair the use and appearance thereof to any greater extent than under the circumstances is necessary, and before erection shall be approved by the local authorities or the Board of Railroad Commissioners. It is hereby provided that from the Fulton County Agricultural Society's grounds in the village of Johnstown to Hill street in the city of Gloversville, the poles shall be at the side of the track, with a bracket to support the trolley wire, and that on all other portions of the route the company shall erect poles on each side of the street to support the trolley wire, the location of such poles to be determined by the local authorities within thirty days from the date hereof.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall use all proper and reasonable means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires, and a guard wire shall be constructed over the trolley wire at a sufficient distance therefrom to prevent telegraph, telephone or other wires coming in contact with such trolley wire.

Fifth. No part of the track shall be laid with the T or center-bearing rail, excepting on that portion of the route now laid with T rail where the road is built on the side of the highway.

Sixth. Said railroad company shall repave where pavements now exist and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks and two feet in width outside of its tracks, under the supervision of the proper local authorities, and whenever required by them to do so and in such manner as they may prescribe, as provided by section 98 of the Railroad Law.

Seventh. The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed by them.

By the Board.

X.

IN THE MATTER OF THE APPLICATION OF THE JOHNSTOWN, GLOVERSVILLE AND KINGSBORO HORSE RAILWAY COMPANY FOR MODIFICATION OF THE CONDITIONS IMPOSED BY THE BOARD PRECEDENT TO THE GRANTING OF ITS APPROVAL OF A CHANGE OF MOTIVE POWER FROM HORSE TO ELECTRICITY.

April 11, 1892.

The conditions, the modifications of which was applied for, touched the question of the erection of poles to support the trolley wire, and kind of rails to be laid by the company on which to run cars, and were

respectively the second and fifth condition. They were drawn with a view of protecting the interests of the village of Johnstown and the city of Gloversville.

By a stipulation duly signed by Edgar Spencer, attorney for the city of Gloversville; Andrew J. Nellis, attorney for the village of Johnstown, and Frank Burton, attorney for the railway company, filed in the office of the Board, it is known that the village of Johnstown and the city of Gloversville agree to the modification asked for by the company and, therefore,

It is ordered, That the second and fifth conditions shall read as follows:

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as not to impair the use and appearance thereof to any greater extent than under the circumstances is necessary, and before erection shall be approved by the local authorities, or by the Board of Railroad Commissioners. It is hereby provided that where the road is built on the side of the street, south of Hill street, in the city of Gloversville, the poles shall be at the side of the track, with a bracket to support the trolley wire, and that on all other portions of the route the company shall erect poles on each side of the street to support the trolley wire, the location of such poles to be determined by the local authorities within thirty days from the date thereof.

Fifth. No part of the track shall be laid with a T or center-bearing rail, excepting on that portion of the route where the road is built on the side of the highway, north of the north side of the main entrance to the grounds of Johnstown Cemetery Association, in the village of Johnstown, and south of the crossing on South Main street in the city of Gloversville, of the Fonda, Johnstown and Gloversville railroad.

It is further asked that an additional condition be imposed and as all the parties in interest agree thereto and unite in the application, the request is granted, and the following, and eighth condition, is made a part of the order of the board:

Eighth. Nothing contained in this order shall be held to impair, modify, or construe any right, privilege or claim either of the said railroad company or of the city of Gloversville except as expressly provided in and by a certain agreement made between them, bearing date, April 26, 1892.

By the Board.

XI.

IN THE MATTER OF THE APPLICATION OF THE ATLANTIC AVENUE RAILROAD COMPANY, FOR A CHANGE OF MOTIVE POWER ON A PORTION OF ITS ROUTE.

April 18, 1892.

Application in this matter, for a change of motive power from horses to the overhead electric trolley system on Atlantic avenue from South Ferry to Boerum Place, through Boerum Place to Bergen street to Rochester avenue; and also on Fifth avenue from Twenty-seventh street to Thirty-sixth street having been made and hearing having been

set down for April 12th at 11 o'clock, at the common council chamber in the city of Brooklyn, and the same having been duly advertised in the public press of that city, and Mr. Richardson, the president of the company, appearing and being heard in favor thereof, and no one appearing in opposition thereto, either in person or by letter; and it having been made manifest by a presentation of the affidavit of Dominick H. Roche, secretary of the board of assessors of the city of Brooklyn, that the total assessed valuation of the property on both sides of Bergen street from Rochester avenue to Boerum Place, on Boerum Place from Bergen street to Atlantic avenue, and on Atlantic avenue from Boerum Place to South Ferry, was \$6,352,360, and that the assessed valuation of the property on said streets, the owners of which had consented to the change of motive power amounted to \$3,439,610, making an excess on this portion of the route over one-half of \$263,430; and by the affidavit of Edwin Bolitho, of the board of assessors of the city of Brooklyn, that the total assessed valuation of the property on both sides of Fifth avenue between Twenty-sixth and Thirty-sixth streets amounted to \$140,680, and that the property, the owners of which had consented to the change, amounted to \$101,800, making an excess over one-half of \$30,460. It is hereby ordered

That the Board approves of a change of motive power on that portion of the route of the company described above, with the following conditions, however, which are made a part of this approval:

First. The rate of speed shall not exceed that to be reasonably fixed by the local authorities of the city of Brooklyn.

Second. The poles from which the wires are to be suspended in Atlantic avenue shall be of iron or steel, and erected between the tracks in the middle of the street, with brackets or arms reaching over the track on each side, unless a majority of the abutting property holders shall prefer, or the local authorities shall require them to be erected on the curb. On other portions of the route, as described above, the poles stand upon the curb. All poles shall be of iron or steel and of a construction or height appropriate to the respective street, and before erection shall be approved by the mayor and common council.

Third. No car shall be run with less than two men to operate it. Every car shall be equipped with guards in front of the wheels coming within two inches of the track to prevent persons from being run over.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires.

Fifth. This approval shall not remove any obligations heretofore resting upon the company, or which may hereafter be imposed upon the company by the local authorities in reference to paving or keeping in repair the pavement between the tracks.

Sixth. The company shall conform to all reasonable requirements of the local authorities heretofore or hereafter to be legally imposed.

Seventh. The company shall construct a guard wire over the trolley or feed wire, and at a distance of not less than eighteen inches therefrom, so as to prevent broken telegraph, telephone or other wires coming in contact with such trolley wire or feed wire.

By the Board.

XII.

IN THE MATTER OF THE APPLICATION OF THE STEINWAY RAILWAY COMPANY OF LONG ISLAND CITY, FOR APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY ON ALL ITS LINES.

May 2, 1892.

This application, dated April 11, 1892, was lodged with the Board. A public hearing was set down and had at the chamber of the common council in Long Island City, at 11 o'clock A. M., Monday, May 2, 1892, after due notice published in the press of Long Island City.

At the hearing the railroad company was represented by Walter J. Foster, counsel, and William Steinway. No one appeared in opposition, nor has the Board received any communication opposing the application. An affidavit duly sworn to by Julius Hunerbein, city surveyor of Long Island City, which was presented by the company, sets forth that he had compared the consents obtained from the abutting property owners with the books of the city assessors for Long Island City, and that he had found that the assessed value of the property owners signing the consents on all the lines of the Steinway Railway Company of Long Island City was \$897,070, and that the assessed value of the total amount of property abutting that line was \$1,322,820, making an excess of consents of \$235,660 over the one-half in value required by law. The original consents were presented to the Board for inspection.

In view of the above facts the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Steinway Railway Company of Long Island City from horses to the overhead electric trolley system upon all the lines of its system, with the following conditions, however, which are made a part of this approval:

First. The rate of speed shall not exceed that to be reasonably fixed by the local authorities of Long Island City.

Second. The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected so as not to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the Board of Railroad Commissioners.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires through leakage, induction or otherwise from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; this provision, however, is not intended to require the railway company to construct a double trolley wire.

Fifth. The company shall conform to all the reasonable requirements of the local authorities, heretofore or hereafter legally imposed by said authorities.

By the Board.

XIII.

IN THE MATTER OF THE APPLICATION OF THE BINGHAMTON AND PORT DICKINSON RAILWAY COMPANY FOR A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRIC TROLLEY SYSTEM.

May 16, 1892.

The Binghamton and Port Dickinson Railway Company having filed its application for the approval of the Board of a change of motive power from horses to the overhead electric trolley system in due form, the Board having set down the date of May 16 for a public hearing thereon, at its office in the capitol, and caused public notice thereof to be published in the press of the city of Binghamton, proof of the publication of which has been duly filed with the Board, and the company having filed its original consents with the Board duly verified in each individual instance, and the same showing that the amount of such consents on each side of the streets, Main, Court and Chenango, on which the line of the road is operated, and as well on the line in the town of Union and the town of Dickinson, amount to \$1,881,800; and the affidavits of Robert Brown, Charles D. Aldrich and William E. Bray, assessors, showing the total aggregate amount of property abutting on the line of the road is \$2,752,525; and it, therefore, being shown that the value of the consenting property abutting on the line of the road exceeds the amount of one-half the aggregate value by over \$500,000; and the consent of the municipal authorities, as shown by a certified copy of the resolutions passed by the common council of the city of Binghamton, having been filed; and no opposition to the approval having presented itself, therefore

It is ordered: That the change of motive power from horses to the overhead electric trolley system by the Binghamton and Port Dickinson Railway Company be approved by the Board with the following conditions, however, which are made a part of this approval, to-wit:

First. That the rate of speed shall not exceed that to be fixed by the local authorities of the city of Binghamton.

Second. The poles from which the wires are to be suspended shall be of a construction and height so as to conform to the requirements of the local authorities of the city of Binghamton, as set forth in the resolutions adopted by the common council of said city on the 28th day of March, 1892, a certified copy of which is on file in this office.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; this provision, however, is not intended to require the railway company to construct a double trolley wire.

Fifth. The company shall conform to all the requirements of the local authorities heretofore imposed in the resolutions of the common council of the date of the 28th day of March, 1892, or which may hereafter be legally imposed by said authorities.

By the Board.

XIV.

IN THE MATTER OF THE APPLICATION OF THE PORT RICHMOND AND PROHIBITION PARK ELECTRIC RAILROAD COMPANY, FOR THE APPROVAL OF THE BOARD OF THE OVERHEAD TROLLEY ELECTRIC SYSTEM AS A MOTIVE POWER.

June 14, 1892.

Application for the Board's approval of the overhead trolley electric system as a motive power, having been made by the Port Richmond and Prohibition Park Electric Railroad Company and duly filed with the Board, and also an affidavit of John W. Lisk, one of the assessors of the village of Port Richmond, setting forth that the written consents of the owners of property bounded on the line, are more than one-half the aggregate amount of value of property bounded on the line; also written consents of the property owners of such village of Port Richmond; the affidavit of Jeremiah Connelly, one of the assessors of the village of New Brighton, setting forth that the amount of property consenting on the line of the road is more than one-half of the aggregate value of the property bounded on the line; and the written consents of the property owners; all of which papers are duly verified; also the agreements between the villages of Port Richmond and New Brighton on the one side and the railroad company on the other, duly sworn to by the presidents of said villages and the president of the Port Richmond and Prohibition Park Electric Railroad Company, setting forth the consents of such local authorities and the conditions precedent thereto, therefore

It is ordered: That the Board of Railroad Commissioners approve and it does hereby approve the adoption of an overhead single trolley electric system by the Port Richmond and Prohibition Park Electric Railroad Company as a motive power.

By the Board.

APPLICATIONS FOR INCREASE OF CAPITAL STOCK.

I.

IN THE MATTER OF THE APPLICATION OF THE OTIS ELEVATING RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$100,000 TO \$170,000.

January 20, 1892.

The preliminary steps required by sections 44, 45 and 46 of the stock corporation law appear to have been taken.

At a meeting of the stockholders held at the office of the company, 54 Harrison street, New York city, on January 13, 1892, 600 shares of stock (the entire amount issued) were voted in favor of the increase and none against. By a clerical error in the certificate signed by the chairman and secretary of the meeting it appeared that C. C. Hayes voted on 5,775 shares; it should have been 575 shares. This has been corrected by an affidavit of the secretary which is attached to the certificates endorsed by the Board.

It appears that on May 19, 1886, this Board approved of an increase of the capital stock of this company from \$60,000 to \$100,000. The Board is informed through the affidavit of the secretary, however, that the increase of \$40,000 has never been issued, consequently the amount of stock outstanding at the time of these proceedings of the stockholders was \$60,000, all of which voted in favor.

In a report of the inspector of this Board, made in May, 1886, he estimated that the cost of constructing the railroad would be \$197,845. The company now informs the Board that it proposes to extend its line easterly about 2,300 feet; that such extension will require a trestle of wood, iron and masonry about 2,100 feet long and from forty to seventy feet high; that the company has contracted to pay for the railroad constructed completely \$174,000 cash and \$80,000 of bonds, the road to be in complete running order on or about July 1, 1892.

In view of the above facts and figures the Board deems that it is justified in approving and does hereby approve of an increase of stock by the Otis Elevating Railway Company from \$100,000 to \$170,000 and has caused its approval to be indorsed upon the certificates as required by section 46 of the stock corporation law.

By the Board.

II.

IN THE MATTER OF THE APPLICATION OF THE HERKIMER, NEWPORT AND POLAND RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$250,000 TO \$500,000.

February 1, 1892.

The preliminary steps required by sections 44, 45 and 46 of the Stock Corporation Law (chap. 564 of the Laws of 1890), have been duly taken, and at a meeting of the stockholders held at the office of the company in the city of New York, on the 25th of January, 1892, it appears that 2,460 shares of stock, out of a total of 2,500 were voted in favor of the resolution increasing the capital stock of said company from \$250,000 to \$500,000; no votes were cast in opposition thereto.

It further appears from the affidavit of W. S. Webb, president of the Herkimer, Newport and Poland Railway Company, that the cost of construction and equipment of the road to date is \$522,418.31; that the proposed increase is rendered necessary in order to pay the floating indebtedness of said company, and to pay the contractors now under contract in the building of said railroad, and supplying further equipment for the same, and to pay for further improvements which are to consist of straightening the road of said company, taking out curves, and strengthening culverts and bridges, the estimated cost of which will not be less than \$100,000.

This statement shows that the construction account is substantially in excess of the amount of stock asked for in this application and, there being no bonds outstanding, the Board feels justified in approving and does hereby approve of an increase of the capital stock of the Herkimer, Newport and Poland Railway Company from \$250,000 to \$500,000, and has caused its approval to be indorsed upon the certificates as required by law.

By the Board.

III.

IN THE MATTER OF THE APPLICATION OF THE CROSSTOWN STREET RAILWAY COMPANY OF BUFFALO FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$500,000 TO \$1,500,000.

February 23, 1892.

The preliminary steps required by statute appear to have been taken in this application. At a meeting of the stockholders, held at the office of the company in the city of Buffalo, on the 16th day of February, 1892, 5,000 shares, being all the stock of the corporation, were voted in favor of the increase.

It appears from the affidavit of Hardin H. Little, president of the company, now on file with this Board that on the 6th day of February, 1890, the consent of the city of Buffalo was obtained to construct, maintain and operate a street surface railroad, the motive power of which was to be the overhead trolley system of electricity on certain of its streets and highways, that of this grant twenty-nine miles have

been laid leaving thirty-five miles yet to be constructed, that the cost of construction of the twenty-nine miles, as aforesaid, exclusive of car houses, power house, and land for same, engines, boilers, generators, has been \$1,117,074.49; that a careful estimate, a copy of which in detail is also filed with the Board, shows that the cost of constructing the thirty-five miles of road yet to be built, including track line and underground work, cars and equipment, buildings and land therefor, steam and electrical plants, etc., will be \$1,685,250, that the company has no bonded indebtedness, but that there is a mortgage of \$350,000 on the tracks now constructed, for advances made, and a further and floating indebtedness of \$267,074, which the company desires to pay.

The financial condition of the company at this date, therefore is as follows:

Capital stock.....	\$500,000
Mortgage on twenty-nine miles of track.....	350,000
Floating debt.....	267,074
Total.....	<u>\$1,117,074</u>
Cost of constructing twenty-nine miles already built....	\$1,117,074
Estimate cost of constructing and equipping thirty-five miles yet to be built.....	1,685,250
Total.....	<u>\$2,802,325</u>

The company represents that its present capital of \$500,000 is inadequate and applies for an increase from \$500,000 to \$1,500,000.

In view of the facts, as above set forth, the Board deems that it is justified in approving, and does hereby approve, of the increase of the capital stock of the Crosstown Street Railway Company of Buffalo from \$500,000 to \$1,500,000.

By the Board.

IV.

IN THE MATTER OF THE SENECA ELECTRIC RAILWAY COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$40,000 TO \$50,000.

May 9, 1892.

A certificate of the proceedings of a meeting of the stockholders of the Seneca Electric Railway Company, signed and verified and acknowledged by the president and secretary thereof, in accordance with the requirements of the statute (sections 45 and 46 of the stock corporation law) having been filed; and, as well, a statement duly verified and acknowledged, supported by the annual report of the company duly verified, on file in the office of this Board as to the finances of the company, which statement sets forth that the capital stock of the company at present is \$40,000; its bonded indebtedness \$40,000 and its floating indebtedness \$7,656.43; that its cost of construction and equipment up

to date is \$80,897.51; that the floating indebtedness has been incurred in repairing and improving its road and cars; and it being shown that the increase of \$10,000 is to be devoted to the payment of the floating indebtedness and the purchase of a new car, therefore, as the cost of construction and equipment is in excess of the outstanding obligations,

It is ordered: That the approval of the Board of Railroad Commissioners of the increase of the capital stock of the Seneca Electric Railway from \$40,000 to \$50,000, be indorsed upon the certificate of the proceedings of the stockholders of said railway.

By the Board.

V.

IN THE MATTER OF THE APPLICATION OF THE CORNING, COWANESQUE AND ANTRIM RAILWAY COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$2,000,000 to \$5,000,000.

May 9, 1902.

The Corning, Cowanesque and Antrim Railway Company applies to the Board for its approval of an increase of capital stock of the company of \$3,000,000, that is to say from \$2,000,000 to \$5,000,000.

A statement of Daniel Beach, vice-president and treasurer of the said company, duly verified under oath, shows that the company has 86.31 miles of main tracks and 45.80 of other tracks, making a total mileage of 132.10; that its capital stock at the time of the making of the application is \$2,000,000 and its bonded indebtedness is \$1,250,000; that since its existence the road has been equipped and operated by the Fall Brook Coal Company under a lease; that it is now proposed to terminate that lease and operate its own lines and to purchase the equipment from the Fall Brook Coal Company; that the equipment desired to be purchased, and for which purpose the proposed increase is to be devoted, is placed at a value of \$3,080,030.71. There is also a statement of the betterments and improvements on the property and of the equipment to be purchased in minute detail, signed and verified by Daniel Beach, treasurer.

The Board directed its accountant to go to the office of the petitioner and examine its books and ascertain its financial condition and its cost of construction and the cost of the equipment proposed to be purchased; the report of the accountant is on file in the office of the Board.

This report discloses that the cost of the road was \$2,886,333.17; that the cost of the equipment was \$2,261,055.45, making a total cost of road and equipment of \$5,087,388.62, an excess of \$87,388.62 over the capitalization proposed. The report further discloses that the \$1,250,000 of bonds issued by the company are debenture bonds, unsecured by any lien upon the company, which were assumed and guaranteed by the Fall Brook Coal Company, which company received the benefits of their proceeds and which has paid a considerable portion of them and will under its guarantee pay the rest. The bonds, therefore, cannot be deemed a liability of the railway company. This leaves the capital \$2,000,000, the only liability, against which is the cost of construction of \$2,326,333.17, an excess of \$826,333.17. Under

these circumstances, as shown by the various papers on file in the office of the Board,

It is ordered: That the approval of the Board of Railroad Commissioners of the increase of the capital of the Corning, Cowanecque and Antrim Railway Company from \$2,000,000 to \$5,000,000 be endorsed upon the certificate of the proceedings of the stockholders of said railway company.

By the Board.

VI.

IN THE MATTER OF THE APPLICATION OF THE FIFTIETH STREET, ASTORIA FERRY AND CENTRAL PARK RAILROAD COMPANY, FOR APPROVAL OF AN INCREASE OF CAPITAL STOCK FROM \$500,000 TO \$1,500,000.

June 1, 1892.

The Fiftieth Street, Astoria Ferry and Central Park Railroad Company applies to the Board for its approval of an increase of the capital stock of the company from \$500,000 to \$1,500,000.

It appears from the papers filed with the Board that the company, though organized two years, has not built any part of its route, although it has obtained the requisite consents. No more stock has been issued than is necessary to its existence and upon that stock only the amount paid in, which is absolutely necessary. It appears from an affidavit of Frederick A. Bartlett, secretary of the company, that when the company was organized and incorporated the route was only seven and three-quarters miles in length. Subsequently a certificate of extension was duly filed in the office of the Secretary of State increasing the length of the route to eleven and one-half miles. It is now proposed to further extend the route one and one-half miles, making the length in all thirteen miles of double track, to which will be added another mile of necessary sidings, turnouts and switches. It is further shown that the company proposes to operate its road by electricity, applied through the medium of storage batteries.

The capital stock of \$500,000 which would have been sufficient for the route as described in the original articles of incorporation, it is alleged, is far from sufficient under the extensions already provided for and which are contemplated in the near future. An estimate in detail, sworn to by Henry G. Evans, engaged in the business of manufacturing and furnishing materials for street-surface railroads, shows that the cost of constructing and equipping the railroad will reach the sum of \$1,505,000.

Certificates of J. F. Harrison, chairman, and Frederick A. Bartlett, secretary, duly verified, shows that the requirements of the statute in advertising the notice of the meeting of the stockholders have been duly complied with, and that more than two-thirds of the shares of the company were represented at the meeting and were voted in favor of the proposed increase to \$1,500,000; therefore,

It is ordered: That the increase of the capital stock of the Fiftieth Street, Astoria Ferry and Central Park Railroad Company from \$500,000 to \$1,500,000 be and is hereby approved, and that the same be endorsed on the certificates of the increase of the capital stock of said company.

By the Board.

VII.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA FALLS AND SUSPENSION BRIDGE RAILWAY COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$100,000 to \$350,000.

June 1, 1892.

The Niagara Falls and Suspension Bridge Railway Company having applied to the Board for its approval of an increase of its capital stock from \$100,000 to \$350,000; and having filed with the Board a certificate duly verified by Charles B. Gaskill, chairman, and Charles B. Hill, secretary, as to the meeting of the stockholders to vote upon the proposed increase; which certificate shows that the meeting was legally called and advertised, the stockholders notified as provided by statute, and that at the meeting more than two-thirds of all the shares of stock of the company were represented in person or by proxy; and that upon the motion to increase the stock as proposed, 2,634 shares of stock, being more than two-thirds of the stock of the corporation, voted for such increase; and it being further shown that the amount of the capital stock actually paid in is \$65,600, and that the whole amount of the debts and liabilities of the company at present is \$61,500; and that the present total cost of road and equipment is \$43,165.73; and an affidavit having been filed with the Board of Charles B. Gaskill, president, that it is proposed to change its road on Falls, Second and Ontario streets, and on Lewiston avenue, to adapt the same for operation by electrical power, involving the rebuilding of the road, double tracking it and paving the streets between the tracks, and as well on Erie and Buffalo streets to Schlosser Landing, and further setting forth that it proposes to build an extension or branch from its present tracks on Ontario street easterly on Pine street to Sugar street, also easterly on Ontario avenue from its present tracks on Lewiston avenue to Sugar street; also southeasterly on Sugar street from Ontario avenue to Schlosser Landing; and that the proposed increase is necessary thereto; also an affidavit by Wallace C. Johnson, setting forth that he has made an estimate of the cost of the improvements and the building of the extensions or branches proposed, and that he estimates the cost of rebuilding the road on Falls, Second and Ontario streets, Lewiston avenue, Erie and Buffalo streets, and of equipping the same with the necessary poles and wires for electrical power and doing the necessary paving, at \$132,041, and the cost of constructing the extensions on Pine street and Sugar street, and constructing the same as an electrical road, at \$56,975; of Sugar street from Pine to Ontario avenue, at \$20,258, and on Ontario avenue at \$27,740, and the power plant to operate such roads and branches at \$17,000, making a total of \$304,014; therefore,

It is ordered: That the increase of \$150,000 be approved and that the same be indorsed upon the certificate of increase of capital stock.

By the Board.

APPLICATIONS TO SUSPEND OPERATION OF ROAD.

In 1886, chapter 605 was passed, providing that any railroad constructed and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel might cease the operation thereof, upon the consent of the Board of Railroad Commissioners thereto, having been first obtained. Under this law, the following applications have been made. The law of 1892 has changed this requirement so that no consent of the board is now necessary. This law went into effect June 7, 1892.

I.

IN THE MATTER OF THE APPLICATION OF THE ONEIDA STREET RAILROAD COMPANY OF UTICA, FOR LEAVE TO SUSPEND OPERATION FROM DECEMBER 1, 1891, TO MAY 1, 1892, IN ACCORDANCE WITH SECTION 55, CHAPTER 565 OF THE LAWS OF 1890.

December 7, 1891.

This application, dated November 25, 1891, was lodged with the Board.

A notice of a hearing before the Board of Railroad Commissioners at its office in Albany, December 7, 1891, was published in the daily newspapers in the city of Utica.

It appears that the railroad runs from Oneida square, Utica, to the cemetery, a distance of about one and one-half miles, and is used only during the summer months.

The statute requires the posting of notice of the intention of a railroad to suspend operation for four weeks prior to such suspension. Therefore the application cannot be granted to take effect inside of such four weeks.

No opposition was presented against granting the request, and it appearing that the public interests would not be prejudiced by the suspension of the operation during the winter months,

It is ordered: That the said Oneida Street Railroad Company shall be relieved of the duty of operating its road between the 4th day of January, 1892, and the first day of May, 1892, upon compliance with the provisions of section 55, of chapter 565, of the Laws of 1890 in regard to posting notices of suspension.

By the Board.

II.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN ELEVATED RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF THE ABANDONMENT OF A PORTION OF ITS ROAD UPON PARK AVENUE AND GRAND AVENUE, IN CONFORMITY WITH CHAPTER 294 OF THE LAWS OF 1891.

December 23, 1891.

The preliminary steps required by statute appear to have been taken in this application, and at a meeting of the stockholders of the Brooklyn Elevated Railroad Company at its office on the 10th day of November, 1891, 103,830 shares out of a total of 132,836 shares were voted in favor of the abandonment.

It appears that at the time that the Brooklyn Elevated Railroad was incorporated and its routes laid out in certain streets, among others, from the intersection of Grand avenue and Myrtle avenue, along Grand avenue to Park avenue, thence along Park avenue to Hudson avenue; that subsequently the Union Elevated Railroad Company was organized and its routes laid out in various directions, among others, along Myrtle avenue from Grand avenue to Hudson avenue, a distance of about 5,000 feet parallel with Park avenue; that the structures were completed both on Myrtle avenue and Park avenue by the respective companies; that the companies were subsequently consolidated and are now operated under the consolidation; that in consequence thereof there is no necessity whatever for the continued operation of the line upon that portion of Grand avenue and Park avenue hereinbefore mentioned.

Due notice of this application was given in the Brooklyn press. No opposition was made in person or by writing to the approval of the Board.

At a public hearing at the rooms of the chamber of commerce, New York city, December 22, 1891, the Board was assured by Mr. Edward Lauterbach, counsel of the company, that the structure would be entirely removed from the abandoned portion, thus leaving that part of Grand avenue and Park avenue unencumbered.

In view of the above facts and of the further fact that no public interest would suffer by such abandonment, the Board deems that is justified in approving, and does hereby approve of the abandonment of that portion of the route of the Brooklyn Elevated Railroad Company lying and being along Park avenue from the easterly side of the structure in Hudson avenue to Grand avenue, thence along and through Grand avenue to the northerly side of existing structure in Myrtle avenue, in all amounting to about 5,400 feet or thereabouts, and has caused its approval of such abandonment to be endorsed upon the declaration of abandonment of the directors and stockholders as provided by statute.

By the Board.

APPLICATION FOR RAILROAD CONSTRUCTION AND EXTENSION.

I

IN THE MATTER OF THE OSCAWANA AND CORNELL RAILROAD COMPANY.

The Oscawana and Cornell Railroad Company having caused to be filed in the office of the Railroad Commissioners of the State of New York, at a meeting of the Board of Railroad Commissioners held at the city of New York on the 26th day of September, 1892, a copy of its articles of association with proof of the publication thereof in the Highland Democrat, the Westchester County Reporter and the Peekskill Blade, three newspapers published in the county of Westchester, and State of New York, being the only county in which such railroad is proposed to be located, once a week for three successive weeks, such publications commencing respectively August 27, 1892, August 28, 1892, and August 30, 1892, and also having presented its petition by its directors asking for the certificate required by the fifty-ninth section of the railroad law of the State of New York and having exhibited a preliminary survey made of the line of the proposed road extending from a point at Oscawana depot south of and near the village of Crugers on the Hudson river in the county of Westchester and State of New York to a point on the Croton river about 1,000 feet distant westerly from Cornell site, the site of the new proposed Cornell dam on the Croton river in the town of Cortland and county of Westchester, and having also filed with the said board proof of the publication in the New York World and in the Highland Democrat of notice of the hearing of the application for such certificate as required by this Board, and due consideration having been given to the papers filed and the statement made by the counsel for said company;

We hereby certify that all the conditions required by section 59 of the railroad law of the State of New York as necessary to be complied with by said railroad company before said company shall exercise the powers conferred by law upon such corporations or begin the construction of its road, have been complied with; and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association.

Dated, ALBANY, *October 4, 1892.*

By the Board.

II.

IN THE MATTER OF THE LONG ISLAND RAILROAD COMPANY, NORTH SHORE BRANCH.

At a meeting of the Board of Railroad Commissioners of the State of New York, held at the city of Albany, on the 19th day of September, 1892, The Long Island Railroad Company, North Shore Branch, caused to be filed in the office of the Railroad Commissioners a copy of its articles of association, with proof of the publication of the same in the Port Jefferson Times, a newspaper published in the county of Suffolk, State of New York, in which such railroad is proposed to be located, such publication having commenced on the 22d day of July and ended on the 5th day of August, and also presented its petition by all of its directors asking for the certificate required by the 59th section of the Railroad Law of the State of New York, together with the blue print of the preliminary survey made of the line of the proposed road, extending from Port Jefferson in Suffolk county to a point near the easterly boundary line of the township of Brookhaven between Wading River and Manor, and having also filed with said Board proof of the publication in said Port Jefferson Times of the notice of this hearing, as required by this Board, and due consideration having been given to the papers filed and the statement made by the counsel for said company;

We hereby certify that all the conditions required by the fifty-ninth section of said act as necessary to be complied with by said railroad company before said company shall exercise the powers conferred by law upon such corporations, or begin the construction of its road, have been complied with; and also that the public convenience and necessity require the construction of said railroad, as proposed in said articles of association.

Dated, ALBANY, *September 19, 1892.*

By the Board.

III.

IN THE MATTER OF CATSKILL AND TANNERSVILLE RAILWAY COMPANY.

At a meeting of the Board of Railroad Commissioners of the State of New York, held at the city of Albany on the 21st of November, 1892, the Catskill and Tannersville Railway Company caused to be filed in the office of the Board of Railroad Commissioners, a duly certified copy of its articles of association, with proof of the publication of a copy of the articles in the Examiner, a newspaper printed and published in Greene county, New York, in which county only the road is proposed to be located, once a week for three successive weeks, beginning September 24, 1892, and also presented its duly verified petition asking for the certificate required by the fifty-ninth section of the Railroad Law, accompanied with a map and profile so far as made of the company's road, namely from Catskill Mountain station, the westerly terminus of Otis Elevating Railway Company, to Tannersville; and having also filed with the Board proof of publication in the Daily Mail, a newspaper printed and published in the village of Cats-

kill, N. Y., of the notice of hearing of the application as required by the Board. And due consideration having been given to the papers filed, to the facts therein contained and to the statements made by the counsel for the company, and we hereby certify that the directors of the Catskill and Tannersville Railway Company have caused a copy of its articles of association to be published and that the copy has been published in the Examiner, a newspaper printed and published in Greene county, New York, the only county in which the road is proposed to be located, once a week for three successive weeks, beginning September 24, 1892, and that satisfactory proof thereof has been filed with the Board of Railroad Commissioners; and that the conditions required by section 59 of the Railroad Law to be complied with by the company, have been complied by it.

And we hereby further certify that public convenience and necessity required the construction of the railroad as proposed in the article of association.

Dated, ALBANY, *November 21, 1892.*

By the Board.

VARIOUS APPLICATIONS BY RAILROAD COMPANIES.

I.

IN THE MATTER OF THE APPLICATION OF THE DUTCHESS COUNTY RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INTERLOCKING SWITCH AND SIGNAL APPARATUS AT THE GRADE CROSSING THE NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD.

January 4, 1892.

This application, through A. B. Paine, chief engineer of construction of the Dutchess County Railroad Company, was made to the Board.

A blue-print sketch was submitted, showing the proposed apparatus to be constructed. A central tower at the intersection of the roads is provided, from which distant signals erected 1,200 feet from the intersection, and home signals erected 350 feet from the intersection of both roads, are operated.

There is also a derailing device provided for about 300 feet from the intersection. The signals are so arranged and interlocked that when they show safety on one road they show danger on the other; and where the danger is shown on the home signal the derailment is provided for.

Upon the completion of this interlocking device, as heretofore described, the Board of Railroad Commissioners hereby relieves the Newburgh, Dutchess and Connecticut Railroad Company and the Dutchess County Railroad Company from compelling their trains coming to a full stop, as provided for in section 36 of chapter 565 of the Laws of 1890.

By the Board.

II.

IN THE MATTER OF THE APPLICATION OF THE WAGNER PALACE CAR COMPANY FOR THE APPROVAL OF THE BOARD OF THE PATTERN AND KIND OF COOKING URNS USED IN BUFFET CARS.

January 4, 1892.

This application, through C. D. Flagg, general superintendent of the company, was duly made to the Board.

A small stove was submitted for the inspection of the Board by W. H. Deal, district superintendent, at the office of the Board, Albany, N. Y., Tuesday, December, 29, 1891. The stove consists substantially of a strong iron frame twenty-one inches wide, seventeen inches deep, and about twelve inches high, on the top of which the water is boiled and cooking done. The heat is supplied by a mineral oil lamp, in which no oil less than 300 degree test is used. The reservoir of the lamp consists of a strong iron tank sliding into the lower part of the frame

and strongly fastened therein. The reservoir holds about a quart. The door of the stove is also fastened so as not to be liable to come open. The frame is fastened either by screws or bolts to a shelf in the compartment of the buffet car.

The Board deems that the frame should be fastened by bolts so as not to roll off in case of the overturning of the car. When so fastened, the Board deems that any danger from this stove is so remote that it is justified in approving, and does hereby approve of such stove in accordance with the provisions of the statute.

By the Board.

III.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY, FOR APPROVAL OF THE BOARD OF AN INTERLOCKING SWITCH AND SIGNAL APPARATUS, ERECTED AT THE CROSSING OF ITS TRACKS OVER THOSE OF THE BROOKLYN CITY RAILROAD COMPANY, AT MYTLE AVENUE IN THE CITY OF BROOKLYN.

May 2, 1892.

This application, by W. H. Blood, general superintendent of the road, was filed with the Board under date April 25, 1892. At Long Island City, May 2, P. D. Ford, chief engineer, and C. L. Addison, signal engineer, appeared before the Board with a tracing of the device and explained in detail the apparatus. On the Long Island tracks, distant and home signals are provided and also derailing devices in case of the disregard of the signal by an engineer on either of the tracks of the Long Island railroad. On the line of the Brooklyn City road on which, at that portion of its crossing the Long Island tracks, dummy engines are operated, the Scotch-block device is provided. This is a device in little use in this country, but in frequent use on the railroads of Great Britain, where it has given great satisfaction in obstructing slow moving and light engines. It consists of a block disc which, when the signal is set against the approaching engine, turns over upon the track, forming a complete obstruction.

The Board approves of the derailing switch and signal apparatus for the Long Island road and of the Scotch-block for Brooklyn City road, as explained and set forth in the tracing hereinbefore mentioned and the respective roads are relieved from the "full stop and crossing on signal," as provided in section 36 of chapter 565 of the Laws of 1890, when such interlocking switch and signal apparatus and Scotch-block shall have been put in operation.

By the Board.

IV.

IN THE MATTER OF THE PETITION OF THE ADIRONDACK RAILWAY COMPANY UNDER SECTION EIGHTY-THREE OF THE RAILROAD LAW, FOR A CERTIFICATE RELIEVING SAID CORPORATION FROM THE OBLIGATION TO EXTEND ITS ROAD.

May 9, 1892.

It appearing by a petition duly signed, verified and acknowledged by the president of the Adirondack Railway Company, on file in the office of this Board, that the petitioner is a reorganized company within the

meaning of the law; that the road was constructed and has been since operated, from Saratoga in the county of Saratoga to the town of North Creek in the county of Warren; that the route of the company as originally provided in the articles of incorporation extended six miles beyond North Creek in a northerly direction; that such portion of the road has never been constructed or operated; that the Adirondack Railway Company has no funds to build said extension; and, it further appearing by affidavits on file in the office of this Board that the notices of the hearing on such petition, the Board had set down for May 9th at 3 o'clock in the afternoon, were published in the Warrensburgh News (Warren Co.), Franklin Gazette (Malone, Franklin Co.), Essex County Republican (Keeseville), Advance and St. Lawrence Democrat (Ogdensburg, St. Lawrence Co.), and Hamilton County Press (Hope, Hamilton Co.), as directed by the Board; and that such hearing was held on May 9th at 3 P. M., and no one appeared in opposition by person, by letter or by counsel, therefore,

It is Ordered, That the certificate of the Board relieving the Adirondack Railway Company from the obligation of extending its road beyond North Creek in the county of Warren, be granted.

By the Board.

IN THE MATTER OF THE POLES TO SUPPORT TROLLEY WIRES OF THE
STEINWAY RAILWAY COMPANY OF LONG ISLAND CITY.

June 1, 1892.

The plan of the poles to support the trolley wires, showing that the proposed poles shall be of wood, octagon in shape, setting six feet in the ground and tapering to the top, straight and upright, is hereby approved for use on the lines of the Steinway Railway Company of Long Island City.

By the Board.

INQUIRIES.

During the twelve months ending June 30, 1892, a number of inquiries have been submitted to the Board involving questions of importance and requiring much investigation. The more important of these are set forth as follows :

I.

Surface Roads Crossing Civil Divisions.

HUDSON, N. Y., *August 21, 1891.*

To the Board of Railroad Commissioners, Albany, N. Y.:

GENTS.—I notice that section 101, title 4 of chapter 565 of the Laws of 1890 changes very materially the provisions of chapter 252 of 1884, section 13, in this, that the new law omits these words contained in the old, "within the limits of any incorporated city or village."

Do you interpret the law as restricting street surface railroad companies to a five-cent rate of fare for one continuous passage over a road running through two or more towns and villages?

We have in contemplation such a road nine miles long, which we would not feel justified in building if we are to be limited to a five-cent fare for the entire route.

An early reply will greatly oblige,

Yours truly,

H. M. MCGONEGAL.

ALBANY, N. Y., *September 14, 1891.*

H. MCGONEGAL:

SIR.—Your communication of August 21st has just been laid before the Board upon its reconvening after the usual summer vacation.

You state, "I notice that section 101, title 4, chapter 565, Laws of 1890, changes materially the provisions of chapter 252 of 1884, section 13, in that the new law omits these words, 'within the limits of any incorporated city or village.'"

It is true that the new law does omit these words. At the suggestion of this Board, the revision commissioners in their report to the legislature last year, submitted an amendment to section 101 reinserting the words "within the limits of any incorporated city or village." The amendment, however, failed to become a law in consequence of the deadlock in the Senate. Probably the amendment will pass next year, but as the law reads to-day the fare is restricted for one continuous ride to five cents.

By the Board.

II.

As to local mail service on the Hudson River Division of the New York Central and Hudson River Railroad Company.

ALBANY, October 20, 1892.

HON. CHAUNCEY M. DEPEW, *President N. Y. C. & H. R. R. Co.:*

SIR.—The Board desires to call your attention to the very unsatisfactory service rendered by train 57, leaving the Grand Central depot at 4.59 P. M., to all points north of Peekskill. This train is a Poughkeepsie local, and was originally intended to particularly accommodate suburban travel north of Peekskill.

Previous to the time-table of September 27, 1891, this train left New York at 4.55. It did not stop until it reached Tarrytown. It passed Garrisons at 6.22, and reached Poughkeepsie at 7.05. It was generally on time, and was satisfactory to a large number of people who take it, particularly those living north of Peekskill.

In the time-table of September 27, 1891, it makes a number of additional stops south of Tarrytown, viz.: Glenwood, Hastings, Dobbs Ferry and Irvington. The result has been that, although the schedule time of the train was extended considerably, it never is on time. It has been every day from ten to twenty minutes late at Garrisons, for instance, and correspondingly late at all points north. It has been a source of much inconvenience and complaint to a large number of people.

Is it not practicable to discontinue the stops south of Tarrytown and put the train under the same schedule that existed prior to the time-table of September 27th.

The above letter led to a voluminous correspondence, resulting in the receipt of the following letter, closing the inquiry and effecting the change desired :

NEW YORK, January 20, 1892.

HON. W. E. ROGERS, *Chairman of the Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—In December last you asked that trains Nos. 57 and 85 be restored on time-table No. 40. Your main object was, I presume, that train No. 57 might make better time from New York to Poughkeepsie.

In looking the table over recently, I have decided that it would be just as well to discontinue No. 85 entirely, consolidating it with the Croton train leaving at 5.08, and I have advised Mr. Voorhees to make this change, leaving the Poughkeepsie train as it now is, departing from Grand Central station at 4.55, passing Garrisons at 6.24, and arriving at Poughkeepsie at 7.10, but sweeping the Croton train leaving at 4.59 from the table entirely.

It may be that you will get complaint about No. 85 being discontinued, but this train will be restored during the summer months. When such disposition is made the public will be as well accommodated as they were last season.

Trusting that this will satisfy you, I am

Yours truly,

JOHN M. TOUCEY,
General Manager.

III.

As to the Crossing of Navigable Streams by New Roads.

PEEKSKILL, October 28, 1891.

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—The Westchester and Putnam Railroad Company, recently organized, has surveyed its route, and is now preparing its maps and profile. At one point it crosses a navigable stream and at which point a draw bridge will be necessary.

Please advise me of any law, rule or regulation fixing the width of the draw, and oblige

Yours very truly,

F. COUCH.

REPLY OF BOARD.

ALBANY, November 5, 1891.

Mr. F. COUCH:

DEAR SIR.—Your letter of the twenty-eight instant is received.

The Board is not aware of any statute fixing the width of any draw. On the contrary, however, the law prohibits the construction of a bridge or other obstruction over any stream or lake navigated by steam or sail-boats at any place where it may be proposed to be erected. You will find this prohibition distinctly stated in section 11, chap. 565 of the Laws of 1890.

It may be proper to call your attention to the fact that sub-division 4 of section 2 of the same act appears to authorize the construction of a railroad across any stream or watercourse, but said subdivision 4 is modified by section 11 in the manner hereinbefore set forth. Section 16 of the same act also appears to make provision for bridging a stream, but in such obscure language that the Board does not deem that it would be held to counteract the prohibition to be found in section 11.

The question as to whether the stream is navigable or not, and therefore comes within the prohibition of the statute, the Board makes no decision upon, as you do not state what stream it is.

By the Board.

SPECIAL INQUIRIES.

PEEKSKILL, N. Y., November 10, 1890.

The Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Yours of the fifth instant is at hand and contents noted.

1. The stream over which we propose to construct a railroad is the Peekskill creek (sometimes called Annsville creek) near its mouth, where it enters the Hudson river, and inside of and to the east of the Hudson River Railroad. The creek at the point where we propose to cross it is navigable for small sailing vessels, flat-bottomed scow-sloops which carry sand and cord-wood.

2. The provisions of the statute to which you refer, section 11, chapter 565, Laws of 1890, is substantially the act of April 12, 1850, section 28.

As I read the law it means that no stream should be *obstructed* by a bridge or otherwise that is closed up. If there is an open draw through which vessels may freely pass and repass, there is no obstruction, no closing up of the stream.

Since the act of 1850 was passed, railroads have been built in this State over hundreds of streams, navigable by steam or sailing boats, among such railroads, the West Shore and Buffalo Railway, constructed in 1881. To be sure, in nearly every instance open draw-bridges have been built, such as we propose to build. It seems to me that it never was the intent of the Legislature to prohibit the building of railroads over streams navigated by steam and sail boats; upon the contrary, section 14 of the act of 1890, provides that "every railroad corporation shall have power to construct its road across, along or upon any stream." Section 16 further provides, that when, according to the route and plan adopted by any railroad corporation hereafter incorporated for the building of its road, it shall be necessary and proper to bridge any river or waters, such corporations may enter upon, acquire title to use such land under water and uplands as shall be deemed necessary for the purposes herein mentioned.

3. If we have power to cross the Peekskill creek we want to do it, and if we do it we want to locate our draw-bridge at the proper place and make it the right width.

Yours respectfully,

FRANKLIN COUCH.

PEEKSKILL, *December 18, 1891.*

WILLIAM C. HUDSON, *Secretary of the Board of Railroad Commissioners, Albany, N. Y.:*

SIR.—I am patiently waiting for a reply to my communication of November tenth, the receipt of which you acknowledged and stated would be submitted to the Board for action.

Yours respectfully,

F. COUCH.

ALBANY, N. Y., *December 26, 1892.*

F. S. COUCH :

SIR.—I am instructed to say that the Board believes it covered the question raised by you in its communication of November tenth, and, therefore, has no further communication to make.

By the Board.

IV.

Electrical powers on Second avenue, Brooklyn.

NEW YORK, *November 21, 1891.*

To the Board of Railroad Commissioners :

GENTLEMEN.—If you can give me any information in regard to the following questions I shall be indebted to you:

First. Does the Brooklyn Railroad Company operate an electric road on Second avenue, Brooklyn?

Second. If so, is the Second Avenue Elevated road a separate organization leased to the Brooklyn C. R. R., or if not, how does it have control of same?

Third. If under any special or general act of the legislature, please refer me to same.

Fourth. When did the Second avenue road begin operations?

I trust I am not trespassing on your kindness or duties in asking the above, and if you can give me the information I will be greatly obliged.

Thanking you in advance, believe me,

Yours truly,

M. M. FRIEND.

ALBANY, N. Y., November 25, 1891.

M. M. FRIEND, *Counselor at Law*, 11 Pine street, New York city:

SIR.—In reply to your letter of recent date asking certain information as to electric road on Second avenue, Brooklyn, this Board would state that it understands the Brooklyn City R. R. Co. does operate a branch of its road by electric power over that part, or a portion of that part of Second avenue so called, which lies in the town of New Utrecht, but not over any of said Second avenue lying in the city of Brooklyn.

Second. So far as any data in this office go to show the said Second avenue branch is not a separate organization but its road is owned by and not leased to said Brooklyn City R. R. Co.

Third. The Board finds no special act of the legislature having reference to a railroad on Second avenue aforesaid, but the right to operate so much of its road on Second avenue by electric power as is above referred to was granted by this Board to said Brooklyn Railroad Company under provisions of chapter 252, laws of 1884, as amended by chapter 531, Laws of 1889, as more fully indicated by enclosed public notice.

Fourth. Nothing on file with this Board shows precisely when the Brooklyn city R. R. Co. commenced to operate its Second avenue branch, but from such information as it now has it is led to believe that such branch has been in operation but for comparatively a short space of time.

By the Board.

V.

As to Street Roads the Termini of which are in different Civil Divisions.

JAMESTOWN, N. Y., November 24, 1891.

Board of Railroad Commissioners, Albany, N. Y.:

GENTS.—In the Laws of 1884 I find the following:

"No company or corporation incorporated under, or constructing and operating a railroad under the provisions of this act, shall charge any passenger more than five cents for one continuous ride from any point on its road or on any branch operated by it or under its control to any other point or on any connecting branch thereof within the limits of

any incorporated city or village. This section shall not be construed to apply to any part of any road heretofore constructed and now in operation, unless such company shall acquire the right to extend such road, or to construct branches thereof under the provisions of this act, in which event its rate of fare shall not exceed its authorized rates prior to such extension." Laws 1884, sec. 13, chap. 252.

This section was not repealed by the laws of 1884, nor has it been since, as I find.

The Jamestown Street Railway Company was incorporated under the general act and prior to 1884, but material extensions have been made under the last named act. On the west, the new extension has been taken into the towns of Ellicott and Busti, for the distance of about three miles; and on the east, the old line extended into the town of Ellicott, some two miles; but within the last two or three months this extension has been put in operation. Electricity, as a motive power, has been adopted on the entire line, within the last year. The road is now being operated in both these towns and in running from one portion of Ellicott to the other, it of necessity passes through the city of Jamestown.

First. What rate of fare controls outside the city limits?

Second. Can two fares be charged from out the city line into and along the city, one for the town and the other for city?

Third. Suppose a passenger gets on at the easterly end of the road, how far can he ride for one fare?

Fourth. The whole length of the road from east to west, being one continuous line, except a break to change cars in the city, can more than one fare be charged? The whole length is about ten miles.

I understand the rate, before this law of 1884, was not to exceed five cents per mile, and yet in Albany they charge six.

These questions are troubling the company somewhat and we are anxious to know the meaning of the law.

Yours truly,

C. R. LOCKWOOD.

ALBANY, N. Y., *November 30, 1891.*

C. R. LOCKWOOD, *Jamestown, N. Y.:*

SIR.—Your communication of November twenty-fourth is received. Therein you quote section 13 of chapter 252 of the Laws of 1884. You then state: "This section was not repealed by the Laws of 1884, nor has it been since, as I find." In the latter statement you are mistaken. This section was repealed, as was the entire chapter, by section 180 of chapter 565 of the Laws of 1890. The revision commissioners apparently intended to re-enact the provisions of section 13, in section 101 of chapter 565. They failed to do so, however, inasmuch as the words "within the limits of any incorporated city or village" were omitted.

At the suggestion of this Board the revision commissioners in their report to the Legislature, last year, submitted an amendment to section 101, reinserting the words "within the limits of any incorporated city or village." The amendment, however, failed to become a law in consequence of the deadlock in the Senate. Probably the amendment will pass next year, but as the law reads to-day "Not more than one fare

shall be charged for passage over the main line or road or branch or extension thereof, whereof the right to construct such branch or extension has been acquired under the provisions of such chapter (252 of the Laws of 1884) or of this article." The Board believes that this covers the subject of your questions without going into them categorically.

By the Board.

VI.

The Legal Life of Railroad Corporations.

NEW YORK, November 30, 1891.

The Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—I am one of the directors of the Otis Elevating Railway Company, organized, I think, in 1884, expecting to connect with the Catskill Mountain Railway Company, and supposed to have kept its charter alive by its annual meetings and by engineering work done during the years of 1887 and 1891.

Please inform me whether the O. E. Ry. Co. has been legally kept alive, so that the company can file maps and make the necessary application to increase their capital stock.

Yours truly,

W. H. RITTER.

ALBANY, December 1, 1891.

W. H. RITTER, Esq., 230 West Thirty-fourth street, New York City:

SIR.—In matter of your inquiry as to Otis Elevating Railway Company, the Board desires to be informed as to these points: Under what law was the company organized, this definitely; how much money has been expended up to date; what is the general nature of the work done? Upon the receipt of this information the Board will be able to reach a conclusion.

By the Board.

NEW YORK, December 2, 1891.

W. C. HUDSON, *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

SIR.—Yours of the first received. Enclosed find memorandum of the law the company organized under. Also note from the secretary as to expenditures.

The company organized in 1885 with Charles Rickerson president. We think everything has been done that the law requires, and are so advised by counsel.

Yours truly,

W. H. RITTER.

REPLY.

ALBANY, December 7, 1891.

Mr. W. H. RITTER:

SIR.—Your communication of the second instant is received. It appears that the Otis Elevating Railway Company was organized under chapter 697 of the Laws of 1886, and filed its articles of association on November 25, 1885; section 2 of said chapter 697 provides that "any

such company shall have and enjoy all the powers and privileges, and be subject to the liabilities mentioned in the aforesaid act passed April 2, 1850, so far as the same are comprised in the first, twenty-sixth and the twenty-eighth sections thereof." The section providing the limit of time within which a railroad company should expend ten per cent of its capital stock, and construct its road, was not among those sections enumerated, consequently it would appear that the company had an unlimited time within which to construct its road.

This chapter 697 of 1886 was repealed, however, by chapter 565 of the Laws of 1890, and its features incorporated in the last named statute. Section 5 of said chapter 565 of 1890, provides "if any domestic railroad corporation shall not within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per cent of the amount of its capital, or shall not finish its road and put it in operation in ten years from the date of the time of filing such certificate, its corporate existence and powers shall cease."

It might be claimed that the failure of the Otis Elevating Railway Company to expend ten per cent of its capital within five years from the time of its incorporation might bring it under the penalties of section 5 of chapter 565. On the other hand, the Board is inclined to think that inasmuch as no such obligation rested upon this road at the time of its incorporation, that a court would hardly interpret the provisions of section 5 with regard to the expenditure of ten per cent of capital stock within five years as applicable to this road under the circumstances. The same would probably be true with regard to the construction of the road within ten years from the time of its incorporation.

With the exception of the doubt expressed above, the Board knows no reason why the company has not been legally kept alive.

By the Board.

VII.

As to use of Steel for Bridge Building.

POTTSTOWN, Pa., *December 11, 1891.*

To the Board of Railroad Commissioners, Albany, N. Y. :

GENTLEMEN.—In competition for work we have been met with the statement that only open hearth steel would be used in bridges in New York State owing to the position taken by your Board. We would be obliged if you will inform us if your Board has ever stated the *method* of manufacture to be employed in making the steel for bridges coming under their control.

If your Board only requires a good uniform steel, as called for in the specifications of Mr. Theodore Cooper and other prominent engineers, we feel confident that our special soft basic Bessemer steel would be satisfactory in every respect. I enclose reports of a few tests made on this material and would be happy to afford facilities to any one that you may appoint to thoroughly investigate our method of manufacture and the finished product.

We are the only manufacturers of basic Bessemer steel in the country, and have recently had our steel accepted by the secretary of the navy for ship work (enclosed find copy.) We now want your Board to do as much for us, provided the chemical qualities and physical tests of our steel are equal to those of the same grades of steel now being used for bridges in your State.

Yours truly,

WILLIAM H. MORRIS,

President.

FIRST REPLY.

ALBANY, December 15, 1891.

MR. WILLIAM H. MORRIS, *President Pottstown Iron Co., Pottstown, Pa.:*

SIR.—In reply to your letter of date of December 11, 1891, I am instructed to say that the Board has never expressed any opinion or made any requirement with regard to the method of making steel for bridges coming under its control.

By the Board.

POTTSTOWN, PA., December 22, 1891.

WILLIAM C. HUDSON, *Secretary of the Board of Railroad Commissioners, Albany, N. Y.:*

SIR.—Your letter of the fifteenth to our president was duly received, and we are obliged to you for your prompt reply.

I note what you say in regard to your Board never having specified the method by which steel should be made for bridges, and assume from this that our soft basic Bessemer steel would be satisfactory to your Board, provided that the tests were equal to those of steel made by other methods.

Assuming the above to be correct, and in view of the fact that certain engineers have declined to use our steel, owing to the position taken by your Board, will you kindly give us a letter distinctly stating that you are willing to accept for bridge and construction purposes our steel, whether made by open hearth or Bessemer process, provided it fulfils the tests specified.

Without presuming too much on your good nature, you can see the value to us of a more explicit statement than that in your letter of the fifteenth.

Your truly,

W. R. WEBSTER,

Engineer, Pottstown Iron Co.

FINAL REPLY.

ALBANY, December 28, 1891.

MR. W. R. WEBSTER, *Engineer Pottstown Iron Co.:*

SIR.—Your communication of December twenty-second is received. Therein you state, "Assuming the above to be correct and in view of the fact that certain engineers have declined to use our steel owing to the position taken by your Board, will you kindly give us a letter dis-

tinently stating that you are willing to accept for bridges and construction purposes our steel, whether made by open hearth or Bessemer process, provided it fulfils the tests specified."

The Board in its communication to you of December 15, 1891, stated that it had never expressed any opinion or made any requirement in regard to the method of making steel for bridges coming under its control. It may be further stated that no engineer has any authority to reject or accept any peculiar kind of steel based on any position taken by this Board with regard to its manufacture, for the reason that the Board has taken no such position and is not prepared to.

By the Board.

VIII.

As to Railroad Legislation.

WASHINGTON, December 4, 1891.

HON. W. E. ROGERS, *Chairman State Railroad Commission:*

SIR.—The Commission is now preparing its fifth annual report to Congress, and an appendix thereto will quite likely be devoted to State legislation regarding railroads. If any laws have been enacted in your State since November, 1890, relating to the management and control of railroads, I would be greatly indebted for copies of the same. Hoping this request may not cause any inconvenience,

I remain very respectfully,

EDWARD A. MOSELEY,

Secretary.

ALBANY, December 8, 1891.

EDWARD A. MOSELEY, *Secretary Interstate Commerce Commission,*
Washington, D. C.

SIR.—Your letter of the fourth instant is received.

You say, "If any laws have been enacted in your State since November, 1890, relating to the management and control of railroads I would be greatly indebted for copies of the same."

Under the provisions of chapter 289 of the Laws of the State of New York of 1889, a commission was appointed consisting of Isaac H. Maynard, Charles A. Collin and Ely C. Belknap to revise the laws of the State. Their report was made to the legislature of 1890 in the form of several bills amending and codifying the general laws of the State. Those which were passed, particularly affecting railroads, were as follows:

First. Chapter 95, entitled "An act to amend the Code of Civil Procedure," one section of which was later on amended by chapter 247, known as the Condemnation Act.

Second. Chapter 563, entitled "An act relative to corporations, constituting chapter 35 of the general laws," known as the General Corporation Law.

Third. Chapter 564, entitled "An act in relation to stock corporations, constituting chapter 38 of the general laws," known as the State Corporation Law.

Fourth. Chapter 565, entitled "An act in relation to railroads, constituting chapter 39 of the general laws," known as the Railroad Law. Chapters 563, 564 and 565 took effect on the 1st of May, 1891.

A complete change in the form and very material changes in the matter of the law of this State are brought about by this codification. A number of the changes you will find noted in the report of this Board to the Governor on page 26 of the appendix of the report of the Board for 1890 (first volume), a copy of which you have.

Possibly the best way to put you in possession of the law as it is to-day, is to send you a copy of "White's Manual of Corporation Law," published this last summer, which I take pleasure in doing by express. This Board will publish the laws in its annual report to the Legislature next month. That probably will be too late, however, for your purposes. I, therefore, send you White's book which you should receive shortly after this letter, and will put you in complete possession of the law as it is, except the Condemnation Act, which is applicable to railroads so far only as it provides the course of procedure that railroads must take to condemn real estate.

By the Board.

IX.

Taxes and Assessment on Railroad Corporations of the State.

CHICAGO, ILL., December 3, 1891

W. E. ROGERS, *Chairman Board of Railroad Commissioners,*
Albany, N. Y.:

SIR.—Mr. Fish, president, tells me you can send me the following data:

First. Assessed value of other property than railroad property in the State.

Second. Assessed value of railroad property in State.

Third. Miles of main track in State.

Fourth. Gross earning of railroads in State.

Fifth. Taxes paid by railroads in State.

Will you kindly send me a copy of report containing this information?

Yours truly,

L. P. MOREHOUSE.

ALBANY, N. Y., December 8, 1891.

L. P. MOREHOUSE, Esq., *Tax Commissioner and Custodian of Deeds of the Illinois Central Railroad Company:*

SIR.—Your communication of December third asking for certain information is received.

You ask, *first*. "The assessed value of other property than railroad property in the State of New York."

Answer.—It is impossible to give this information as there is no central office in this State where the returns of the assessors are separated so as to give information which will enable me to answer your question.

Second. "The assessed value of railroad property in the State."

Answer.— Cannot be given for reasons stated in answer to first question.

Third. "Miles of main track in State."

Answer.— For year ending June 30, 1890, 7,590.07.

Fourth. "Gross earnings of railroads."

Answer.— For year ending June 30, 1890, \$163,974,833.87.

Fifth. "Taxes paid by railroads."

Answer.— For year ending June 30, 1890, \$5,496,092.37.

By the middle of next month these figures for the year ending June 30, 1891, will be compiled and published.

By the Board.

X.

Disregard of Rules.

ALBANY, N. Y., December 4, 1891.

HON. CHAUNCEY M. DEPEW, *President New York Central and Hudson River Railroad Company:*

SIR.— Rule 162 published upon the time-tables of the New York Central Railroad provides as follows:

"Distant station signals must always be set at danger when the train is at the station receiving and discharging passengers, or whenever track is obstructed, switches turned or line broken from any cause; also to prevent a train from an opposite direction running between the stations and a train receiving and discharging passengers."

This Board desires to call your attention to the fact that this rule is frequently disregarded. An instance occurred to-day at Rhinecliff station. When train No. 23, north bound, was standing at the station a passenger left the train on the west side desiring to go to the ferry. A freight train was just about passing and the man would inevitably have been killed had it not been for the quickness of a trainman who forcibly pulled him back.

The disregard of this rule has frequently been observed. Your attention is drawn to it in the hope that you will see that measures are taken to assure its strict observance in future.

By the Board.

XI.

The Use of Automatic Couplers.

ALTOONA, Pa., December 16, 1891.

W. C. HUDSON, *Secretary New York State Railroad Commissioners, Albany, N. Y.:*

SIR.— It is the practice of the Northern Central Railway, which runs into New York State, to equip all new cars built, cars rebuilt and cars purchased with Janney couplers, arranged in the usual way, so that they can be coupled and uncoupled without going between the cars.

Will you kindly advise me as to whether these conditions satisfy the letter and spirit of the law, first, as to the equipment, and, second, as to the class of couplers used, viz., the "Janney?"

We wish to comply with the law in all respects, and presume we are doing so, but would like to have a definite understanding.

Yours truly,

THEO. N. ELY,

General Supt. Motive Power.

ALBANY, N. Y., *December 24, 1891.*

MR. THEODORE N. ELY, Esq., *Gen. Supt. Motive Power Penn. Railroad, Altoona, Pa.:*

SIR.—Your communication of December sixteenth is received.

You state, "It is the practice of the Northern Central Railroad, which runs into New York State, to equip all new cars built, cars rebuilt and cars purchased with Janney couplers, arranged in the usual way so they can be coupled and uncoupled without going between the cars. Will you kindly advise me as to whether these conditions satisfy the letter and spirit of the law, first, as to the equipment, and, second, as to the class of coupler used, viz., the "Janney?"

The Board is of the opinion that the practice of the Northern Central Railroad as defined by you fulfils all the requirements of the law.

The Board, however, calls your attention to the fact that chapter 524 of the Laws of 1889, provides as follows:

SECTION 1. All persons and corporations operating any line or lines of railway by steam power in this State, shall, after the first day of November, 1892, equip all of its own engines and freight cars run and used in freight trains or other trains in this State with such automatic self-couplers.

By the Board.

XII.

Legal Fares on Railroads.

BROOKLYN, N. Y., *December 17, 1891.*

MR. W. C. HUDSON, *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

SIR.—Will you please advise me whether there is any law or act which requires us to charge less than five cents for a single fare, even though the distance should be less than a mile. My experience with other roads in this State is that no charge is made for less than five cents, and I am not familiar with the laws governing such matters.

I would also like to know whether in selling a ticket for a greater distance than one mile, whether we are not privileged to charge at the rate of five cents for the first mile, and the legal rate three cents per mile for the succeeding miles.

Thanking you in advance for the information on this subject, I am,
Sincerely yours,

J. HORACE HARDING.

ALBANY, N. Y., December 24, 1891.

J. HORACE HARDING, *Secretary Brooklyn, Bath and West End Railroad Company, 122 South Fourth Street, Philadelphia, Pa. :*

SIR.—Your communication of the seventeenth instant is received. You ask if there is any law or act which requires you to charge less than five cents for a single fare, even if the distance should be less than a mile.

Subdivision 5 of section 37 of chapter 565 of the Laws of New York, of 1890 (the new railroad code), does not authorize the charge of five cents for a single mile or fraction thereof. On the contrary it specifically provides that three cents shall be charged for a mile or fraction thereof; there are certain exceptions made, but they do not cover your case.

By the Board.

XIII.

Commutation Rates.

NORTHERN RAILROAD COMPANY OF NEW JERSEY.

Notice to commuters :

On and after January 1, 1892, commutation tickets will be issued subject to the following rules and regulations:

I. Commutation tickets are not transferable and will be valid when presented by the person named thereon for sixty rides during the calendar month and between the stations named, and must be presented to the conductor each trip.

II. If offered by any other person it will be forfeited and taken up by the conductor.

III. The ticket is good for continuous passage only, and on such trains as are scheduled to stop regularly at the stations named thereon, but the holder thereof may ride any number of times, not exceeding sixty, on any day or days within the calendar month.

IV. No return of any portion of the fare received for the ticket will be made in consequence of the inability of the holder to use the same within the calendar month for which it has been issued, except where the contract has been canceled by the company, owing to discontinuance of train service or some unforeseen cause.

V. No return of any portion of the fare received for the ticket will be made in case the holder loses the same, but a duplicate can be obtained on payment of *pro rata* per day for the unexpired period.

VI. No return of any portion of the fare received for the ticket will be made in lieu of other passage money paid to agents or conductors for failure to produce the ticket to cover the ride in question.

Orders for commutation tickets may be left with station agents, who will have the tickets ready for delivery on the following day.

O. A. ROORBACH,

Secretary and Treasurer.

November 23, 1891.

NEW YORK CITY, *December 17, 1891.*

New York State Railway Commissioners, Albany, N. Y.:

GENTLEMEN.—I am a commuter on the Northern Railroad of New Jersey, between New York City and Piedmont-on-Hudson, N. Y. I have received a notice, a copy of which is enclosed herewith, in which I am informed that if I lose my commutation ticket I shall be obliged to pay for a duplicate ticket *pro rata* for the unexpired period. These tickets are sold for one month and entitle the commuter to sixty rides. If it should happen, therefore, that I was unfortunate enough to lose my ticket on the second or third day of the month I would be obliged to pay twice the usual commutation rates for that month.

This circular also says that in the event of my failure to have the ticket in my possession at any time, the conductor shall collect a fare from me, the amount of which collection will not be returned to me at the end of the month.

I recognize the right of the railroad company to make such rules in regard to its tickets as are reasonable, and if the distance between the stations mentioned above was shorter, and the commutation ticket less expensive, I should not feel that the railroad company was unreasonable, but where the distances are so great and where each railroad conductor knows very well all the commuters on his train, it seems as if the rules of the railroad company were unreasonable, and, therefore, contrary to the spirit of the law.

I write this to ask your office if the railroad company in question is supported by the law or by decisions of your honorable body in making such rules, and whether, in your opinion, the commuters have any rights in the premises which these rules violate? In short, is there any limit to the rules which a railroad company may make in selling commutation tickets over its road?

Up to this time the Northern Railroad of New Jersey has recognized the right of its commuters to a return of the fare at the end of the month whenever a commuter has left his ticket at home; and it has also issued a duplicate ticket whenever its commuters had been unfortunate enough to lose theirs; subject, however, to a payment on the part of the commuter of his fare for a sufficient length of time to allow them to notify the conductors of the loss of the ticket.

Will you kindly give me the views of your Commission on the subject, and let me know whether an appeal may be had from these rules to yourselves?

Awaiting the courtesy of a reply, I remain

Very truly yours,

OSCAR H. ROGERS, M. D.

ALBANY, N. Y., *December 24, 1891.*

OSCAR H. ROGERS, *Office New York Life Insurance Co., 346 Broadway, New York city:*

SIR.—Your communication of the seventeenth instant, in reference to commutation tickets on the Northern Railroad of New Jersey, between New York city and Piedmont-on-Hudson, is received.

The journey you describe would, in every case, come under the head of interstate commerce, and is, therefore, not within the jurisdiction of the Board. It is, however, within the jurisdiction of the Interstate Commerce Commission at Washington.

The Board may say, however, that there is no law providing for the issuance of commutation tickets at reduced rates by railroad companies. The issuance of such commutation tickets is voluntary with the railroad companies, and it can be presumed, therefore, that they can attach such regulations or rules to them as they may deem proper.

By the Board.

XIV.

Rates for Carriage of Milk.

WILLINK, N. Y., *December 23, 1891.*

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—All railroads leading into Buffalo are carrying milk at the uniform price of one and one-half cents per gallon, any distance from five to 100 miles along their lines.

Have the producers upon the high-priced lands near the city any chance to legally procure a lower rate of freight than those upon the cheaper lands much farther from the market?

Respectfully,

CALEB F. BROWN.

ALBANY, N. Y., *December 29, 1891.*

CALEB F. BROWN, *Willink, Erie County, N. Y.:*

SIR.—The practice of uniform rates for the transportation of milk into all the large cities of this State is general. The Board believes the same practice obtains in other States in this country as well as abroad. The reason is that the milk service is a special service, and that the method of rates in practice has proven satisfactory.

By the Board.

XV.

Railroad Crossings by Bridge.

JAMESTOWN, N. Y., *January 7, 1892.*

To the Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—By the Laws of 1890, section 11 of chapter 565, it is provided as follows:

“No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake navigated by steam or sail-boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any high-

way in any town or street in any incorporated village without the order of the Supreme Court of the district in which such highway or street is situated, made at Special Term thereof, after at least ten days written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated."

From the above, it will be seen that the order of the Supreme Court is required where the proposed road passes upon any highway of a "town" or street in any incorporated "village."

The object of this inquiry is to ascertain from this Board the construction of the above provisions in respect to highways in incorporated cities. Is it necessary to apply for an order of the court in case of laying tracks in, and using the highways or streets of a city for railway purposes?

Yours truly,

C. R. LOCKWOOD.

ALBANY, N. Y., *January 11, 1892.*

C. R. Lockwood, Esq., *Jamestown, N. Y.:*

SIR.—Your communication of the seventh instant is received. Therein you quote a portion of section 11, chapter 565 of the Laws of 1890, and then state as follows:

"The object of this inquiry is to ascertain from this Board the construction of the above provision in respect to highways in incorporated cities. Is it necessary to apply for an order of the court in the case of laying tracks in and using the highway or streets of a city for railway purposes?"

Without going into an elaborate investigation or argument on the case, the Board has to state that it does not think that it is necessary to apply for an order of the court in the case of laying tracks in, and using highways and streets of an incorporated city for railroad purposes.

By the Board.

XVI.

As to Section 101, Chapter 565.

BROOKLYN, N. Y., *January 9, 1892.*

Board of Railroad Commissioners:

GENTS.—Will you be kind enough to advise me whether in the matter of section 101, chapter 565, Laws of 1890, any action of the Board or of other parties is being taken toward having the Legislature re-insert the word "within the limits of any incorporated city or village" after the word "thereof," and oblige.

Yours,

E. J. GRANT.

ALBANY, January 11, 1892.

E. J. GRANT, ESQ., No. 189 *Montague street, Brooklyn, N. Y.*:

SIR.—The Board suggested to the revision commission that the words quoted by you should be re-inserted after the word “thereof,” and it is understood by the Board that in the new revision to be submitted to the Legislature of 1892, this has been done.

By the Board.

XVII.

Lists of Stockholders, Where Filed.

BOSTON, January 13, 1892.

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—We desire very much to get a list of the stockholders of the Ogdensburg & Lake Champlain, of which we are the owners of 1,000 shares or more.

We desire to know if there is any place where such a list is on file, so that we may send and get a copy of the same.

If this list is not on file in Albany will you please tell us if the laws of your State require all companies in your State to allow any stockholders to see a list of all the stockholders of the road? An early reply will greatly oblige.

Yours truly,

R. L. DAY & CO.

ALBANY, January 15, 1892.

Messrs. R. L. DAY & Co., *Boston, Mass.* :

GENTLEMEN.—Your letter of January thirteenth, asking if there is any place where a list of the stockholders of the Ogdensburg & Lake Champlain Railroad is on file, is received.

There is no such list on file in this office. Chapter 564 of the Laws of the State of New York for 1890, provides in section 29 (which section applies to railroads as well as other stock corporations) as follows: Section 29. “Books to be kept.—The directors of every stock corporation shall keep at its principal office or place of business correct books of account of all its business and transactions; and shall cause its treasurer or secretary to keep a book containing the names, alphabetically arranged, of all persons who are, or within six years have been, stockholders of the corporation, showing their place of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount actually paid thereon; which books shall daily, during business hours, be open for the inspection of stockholders and creditors of the corporation, and their personal representatives at such principal business office; and every such stockholder, creditor or representative may make extracts from such books; and no transfer of stock shall be valid as against the corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the corporation according

to the provisions of this chapter, until it shall have been entered in such books as required by this section, by an entry showing from and to whom transferred. Such latter book shall be presumptive evidence of the facts therein so stated in favor of the plaintiff, in any action or proceeding against such corporation or any of its officers, directors or stockholders. Every corporation that shall neglect or refuse to keep or cause to be kept such books, or to keep them open for inspection as herein required, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect or refuse. If any officer or agent of any such corporation shall neglect or refuse to make any proper entry in such book or books, or shall neglect or refuse to exhibit the same, or allow them to be inspected and extracts taken therefrom as provided in this section, the corporation and such officer and agent shall forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all damages to him resulting therefrom.

By the Board. _____

XVIII.

Height of Overhead Bridges.

NIAGARA FALLS, *January, 28, 1892.*

Board of Railroad Commissioners:

GENTLEMEN.— Will you kindly inform me what the proper elevation is, in the clear, for an overhead crossing from top of rail; also if there is any law as to the grade of approach?

Yours respectfully,

D. WHITNEY.

ALBANY, N. Y., *February 2, 1892.*

D. WHITNEY, 135 *Buffalo St., Niagara Falls, N. Y.:*

SIR.— There is no law fixing the proper elevation of overhead crossings. The Board has recommended that the height should not be less than twenty feet, and this recommendation is being quite generally observed by railroads in new construction.

By the Board.

XIX.

As to Abandonment of Roads.

ADDISON, N. Y., *February 1, 1892.*

W. C. HUDSON, *Secretary Board of Railroad Commissioners:*

DEAR SIR.— It is very evident that the Bradford, Eldred & Cuba Railroad cannot be made to pay its operating expenses and be maintained. Now I wish you to give the following information:

Supposing the court should order the receiver to sell the property, and the same be purchased by an individual, would this individual

have a right to abandon the road and dispose of the rail, equipment, etc.? Would there be a necessity of any consent being given the purchaser by the Railroad Commissioners, or any legal authority? Kindly advise me in regard to this matter.

Yours respectfully,

FRANK M. BAKER.

Agent for Receiver.

ALBANY, N. Y., *February 15, 1892.*

FRANK M. BAKER, Esq., *Agent for Receiver, Addison, N. Y.:*

SIR.—The Board of Railroad Commissioners has no authority under any existing law, to grant consent of sale, under the conditions you set forth in your letter of February 1, 1892. The Board can not give any advice as to what an individual becoming possessed of railroad property under a sale ordered by the court may do. So far as it is informed, it would seem that no law prohibits him from abandonment.

By the Board.

XX.

Through Rates From the West.

BUFFALO, *March 3, 1892.*

To the Board of Railroad Commissioners of the State of New York:

HONORABLE SIRS.—The Buffalo Lumber Exchange and the Tonawanda Lumbermen's Association have appointed committees to inquire carefully into the system of the issuing of through rates of freight by the different railway companies from western points to the eastern markets, with a view to having the system corrected. These rates are less than the rates from said western points to Buffalo and Tonawanda to the same eastern markets when added together, from one to six and one-half cents per hundred pounds, and said through rates are, therefore, very injurious to our lumber interests.

We understand that your Commission has given this matter careful consideration and has also adopted a resolution recommending a readjustment of the through rates. Will you kindly give us all the information you can bearing upon this very important matter, so we can take it up and discuss it fully with the agents of the different railways at an early date, and oblige

Yours very truly,

MILLARD S. BURNS,

For the Buffalo Lumber Exchange.

JOHN W. ROBINSON,

For the Tonawanda Lumber Association.

ALBANY, N. Y., March 7, 1892.

MILLARD S. BURNS, Esq., *Buffalo Lumber Exchange, Buffalo, N. Y.:*

SIR.—Your letter of March 3, 1892, signed also by John W. Robinson for the Tonawanda Lumber Association, has been received.

In 1889 the Buffalo Merchants' Exchange made a complaint of discrimination in freight rates against the railroads centering in Buffalo. After a careful examination and hearing in Buffalo, which occurred on the 16th day of April, 1889, and at which merchants of Buffalo and representatives of the railroads were heard, the Board reached its conclusions and recommendations in the matter, which were printed. With this mail is transmitted to you a dozen copies of their decision.

The Board believes that the principles involved in this complaint are the same as presented by you, and that in its decision it has traversed the whole matter. Any further information that the Board can give you it will be pleased to do so upon further application.

By the Board.

XXI.

Accommodations by Connecting Lines.

NEW YORK, April 15, 1892.

Board of Railroad Commissioners:

GENTLEMEN.—Section 35 of the General Railroad Law (chapter 565, Laws of 1890) treats of the duties of railroads in this State toward competing connecting lines and provides that they shall “fairly and impartially afford equal terms of accommodation, privileges and facilities” to such lines. Can you kindly put us on the track of any State decisions involving the construction of that section or any recommendations by the Railroad Commissioners based upon it? Our purpose particularly is to find out (1) whether that has been construed to compel the giving of through rates to a connecting line where they have already been granted to another such line, and (2) to what extent has the Board been able successfully to compel an unwilling road to grant facilities where they involved a supervision of the practical management of the road. That is, if a railroad has delayed, side-tracked or otherwise mismanaged freight in order to inconvenience shippers or a connecting road, has the Board been able to prevent it? If you could furnish us with the whereabouts of such information, at your early convenience, you would greatly oblige us.

Yours very truly,

ROOT & CLARK.

REPLY OF BOARD.

ALBANY, N. Y., April 21, 1892.

Messrs. ROOT & CLARK, 32 Nassau Street, New York City:

GENTLEMEN.—In reply to your letter of April fifteenth, I am instructed by the Board to say that section 35, chapter 565, Laws of 1890, is a substitute for the provisions theretofore embraced in section 1 of chapter 222, Laws of 1847. The last mentioned act provides that

proprietors of connecting or intersecting roads aggrieved, could apply to the Governor for appointment of three commissioners to examine as to the alleged grievances and to prescribe regulations, etc., when approved by the Supreme Court, to be enforced by attachment, mandamus or otherwise.

Under this act, the Board of Railroad Commissioners, as such, had no jurisdiction. Chapter 565 of the Laws of 1890, however, gave this Board power to act in the premises. Though the act went into effect on May 1, 1891, no case involving the question raised by you has come before the Board. The provisions of section 35 would seem to be ample to compel the enforcement of any regulation the Board might prescribe in such case.

By the Board.

XXII.

Annual and Quarterly Reports.

TONAWANDA, N. Y., May 2, 1892.

WILLIAM C. HUDSON, *Secretary Board of Railroad Commissioners:*

SIR.—Will you be kind enough to inform me if we cannot have an extension of time in which to make our first quarterly report, as our road has been partly in course of construction during the quarter ending March 31, 1892. Would there be any penalty attached if we should fail to make this first quarterly report, and make a full report June thirtieth, the close of the fiscal year. We commenced operations January 1, 1892. By advising us in this matter at your earliest convenience you will greatly oblige.

Yours, etc.,

PETER McNEIL,

President.

Per WM. J. VOORHEES,

Superintendent.

N. B.—Will you please send us the necessary blanks on which to make our report.

W. J. V.

REPLY OF BOARD.

ALBANY, N. Y., May 4, 1892.

PETER McNEIL, Esq., *President Tonawanda Electric Railroad Company, Tonawanda, N. Y.:*

SIR.—Section 57, chapter 565 of the Laws of 1890, provides, that in case of failure of a company to file its report as provided by law and the rules of the Board, the company shall be liable to a penalty of \$250, and an additional penalty of twenty five dollars for each day of neglect. The Board has in the past for good reasons extended the time for filing the quarterly report. It does not require that a quarterly report should be filed until six weeks after the expiration of the quarter for which the

report is to be made; therefore your report for the quarter ending March thirty-first is not due in this office until on or about May fifteenth. In your letter of date of May second you do not set forth sufficient reasons to justify the Board in extending the time of your quarterly report.

As to your annual report, it is not due in this Board until the first day of September. It would seem that you had ample time in which to make that report for the months of your operation.

By the Board.

XXIII.

Stoppage of Street Cars.

JAMESTOWN, N. Y., *May 15, 1892.*

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Has a street railway company the right to establish its stopping places along its route, for public convenience in getting on and off the cars? Unless this be so the company must stop at any place a passenger desires. It would seem that a regulation in this respect would be best for company and public.

Yours, etc.,

C. R. LOCKWOOD.

ANSWER.

ALBANY, *May 20, 1892.*

C. R. LOCKWOOD, *Jamestown, N. Y.:*

SIR.—It would seem that the railroad companies have the right to stop where they choose, subject to municipal regulation.

By the Board.

XXIV.

As to Electricity as a Motive Power.

HORNELLVILLE, N. Y., *June 14, 1892.*

WM. C. HUDSON, *Secretary of the Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—May I inquire how your Board interprets section 100 of the railroad laws.

Is it necessary for a new company to get a permit from your Board before it can use electricity as a motive power on a street surface road? A reply will greatly oblige.

Sincerely yours,

MILO M. ACKER.

ALBANY, N. Y., *June 28, 1892.*

MILO M. ACKER, *Hornellsville, N. Y.:*

DEAR SIR.—Reply to your communication of the sixteenth instant has been delayed for the reason that the several members of the Board, upon its adjournment made June fourteenth to July fifth, left the city

and no one here had authority to speak with positiveness as to position taken by the Board on the question you raise in your letter and refer to.

I am now, however, directed to advise you that the Board holds that under section 100 of the railroad law, as it now stands, its consent must first be obtained before any street railroad company can use electricity as a motive power regardless of when the said company was organized, or the terms set forth in its articles of association.

By the Board.

XXV.

As to Center-bearing Rails.

GLOVERSVILLE, N. Y., June 14, 1892.

The Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—On the ninth day of May your Board made an order amending your order of April eleven permitting the Johnstown, Gloversville and Kingsboro Horse Railroad Company to change its motive power from horses to electricity.

Your order does not specify what kind of rails should be used. The railroad law, as amended by chapter 676 of 1892, which took effect June seventh instant, prohibits any railroad corporation laying down in any city any kind of "center-bearing" rail. This company is now engaged in putting down its tracks and we expect they will, in the course of a week, reach the city limits. They are using the common T rail employed by steam railroads and are building their tracks in all respects like a steam railroad track with cross ties and T rails spiked thereon. It seems to me to be a very objectionable track to be laid down in the streets of our city, and it no doubt is, but the company claims that the T rail is not a "center-bearing" rail, and therefore not within the prohibitions of the law of last winter.

Will you kindly give me your view of this matter?

Is the T rail a "center-bearing" rail within the prohibitions of section 109 of article 4 of the railroad law (chapter 565, Laws of 1890) as amended by chapter 676, of the Laws of 1892? An early reply will greatly oblige,

Yours, etc.,

EDGAR A. SPENCER,

City Attorney.

XXVII.

As to Spark Arrester.

PORT HENRY, N. Y., June 22, 1892.

W. C. HUDSON, *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—We use in the smoke stack of our locomotives, wire spark arresters, grate form $\frac{3}{16}$ mesh, the same as the "D. & H." Does this comply with the law? In our cattle guards we use timber

slats for covering, triangular shaped, sharp edge up. Does this comply with the requirements? Please send us your printed instructions as to these and other such matters.

Respectfully yours,

E. B. HEDDING,
Superintendent.

ALBANY, N. Y., July 5, 1892.

E. B. HEDDING, Esq., *Superintendent Lake Champlain & Moriah Railroad Company:*

SIR.—Replying to your letter of June twenty-second, I can say that the use on your part, in your smoke stacks, of wire spark arresters of $\frac{1}{16}$ of an inch mesh is in compliance with the law. As a matter of fact the law does not designate what size of mesh shall be employed.

As to cattle guards, section 32 of chapter 565 of the Laws of 1890, says: "Every railroad corporation shall construct where not already done and hereafter maintain cattle guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad." You will perceive that the law only provides that a cattle guard of some kind shall be constructed and maintained, and, therefore, great liberty of action in the matter is given to the corporation. The diagram which you present is the form which stands in the highest approval by railroad operators and one which the Board is inclined to approve above all others.

By the Board.

ACCIDENTS.

I.

IN THE MATTER OF AN ACCIDENT AT CROOK'S CROSSING OF THE
STATEN ISLAND RAPID TRANSIT RAILWAY ON OCTOBER 6, 1891,
RESULTING IN THE DEATH OF THREE PERSONS AND SERIOUS INJURY
TO ONE.

Albany, November 16, 1891.

An examination of the premises was made by a member of the Board October twenty-three. It appears that Crook's crossing is about half a mile west of Gifford, a station of the Rapid Transit line; that on October sixth at 8.10 A. M. a covered butcher's wagon in which were John Jones, Mrs. Edward and infant daughter and Antonio Branten, while passing over this crossing, was struck by passenger train No. 4, by which John Jones, Mrs. Edward and infant daughter were instantly killed and Antonio Branten seriously injured.

At this point the highway passes over the railway track at an acute angle and between the two, on the westerly side, the angle is filled in with a thick growth of trees. The railroad curves sharply a short distance beyond the crossing, and the only positive warning for persons passing south would be the locomotive whistle. On the opposite side of the track is an embankment that obstructs the view of approaching trains from persons going north until about fifty feet from the track.

At this examination Superintendent Gannon stated that the matter of placing electric bells at unprotected crossings had been under consideration for several months previous to this accident. His attention was called to the embankment, with the suggestion that the cut be widened at this point; also, to the advisability of cutting down the trees growing in the angle near the crossing. The first proposition was deemed practicable. As to the second, no assurance could be given, from the fact that the woods did not belong to the Staten Island Rapid Transit Company.

This line is about twenty-one miles in length. It has about fifty grade crossings, twenty-five of which are protected by gates or flagmen. The number of grade crossings, it will be seen, is large when compared with the length of the road.

It is believed that if the bank at this crossing was cut down, the increased width of road would enable persons crossing to obtain a view of approaching trains a much longer distance off than at present. Some arrangement should be made with the owner as to cutting down the trees in the angle on the west side. In addition to these changes, an electric bell should be erected and put in operation at this crossing and at other crossings where the view of approaching trains is less than one quarter of a mile.

RECOMMENDATIONS.

The Board recommends that the embankment on the west side be cut down; that the Staten Island Rapid Transit Railway Company confer with the owners of the woods in the angle on the east side, with the view of obtaining the right to cut down these trees adjoining its line which now obstruct the view of a south-bound train; that an electric bell be erected and placed in operation at this crossing, and at all other unprotected crossings on the line of this railroad where there is not a clear view of at least one quarter of a mile.

By the Board.

II.

IN THE MATTER OF AN ACCIDENT ONE-QUARTER OF A MILE WEST OF ADRIAN, A STATION ON THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD, AT 12.50 P. M., NOVEMBER 11, 1891, BY WHICH ONE PERSON WAS INSTANTLY KILLED, ONE DIED NOVEMBER TWENTY-SECOND, FROM INJURIES RECEIVED, AND SEVENTEEN PASSENGERS, ONE POSTAL CLERK, ONE NEWSBOY, AND TWO EMPLOYEES WERE SERIOUSLY INJURED.

Albany, December 7, 1891.

An investigation as to the probable cause of this disaster was made by a member of the Board at Elmira, December fourth, at which were present Superintendent Maguire, Colonel Johnson, general roadmaster; division roadmaster Van Frank, supervisor Randolph and master mechanics Ransom and Lavery. A map of the locality, showing the position of the wrecked train, drawn to a scale, was submitted.

It appears that on November eleventh, at 12.50 P. M., passenger train No. 8, consisting of locomotive No. 328, one postal car, one combination baggage and smoking car, one day coach, one dining car, one parlor car and three sleeping cars, in charge of C. P. Collins, conductor, and James Stickney, engineer, when at a point one-quarter of a mile west of Adrian, running at a speed of fifty miles an hour, was derailed by the forward truck of the locomotive leaving the track; the derailed truck ran 238 feet close to the rail, when the driving wheels also left the rail and ran for 178 feet eastward off of the rails. From this point to where the engine was found, about 100 feet, the ties were bunched and the rails were displaced. When stopped the locomotive was nearly at right angles with the eastbound track, as were the combination car and day coach; the postal car was thrown across the west bound track, the dining car was at an acute angle over all the tracks, the parlor car was nearly in line with both trucks off, the forward truck of the first sleeper was derailed, the two rear sleepers remained on the track. James Stickney, engineer, was killed instantly; James Baird, fireman, died eleven days afterward from injuries received. The following passengers were injured: C. W. Taylor, Brighton, Pa.; Isidore Schalmaz, Austrian; Mrs. C. R. Hulbert, Canaseraga, N. Y.; Mrs. N. E. Bennett, Canaseraga, N. Y.; George Wintz, New York city; H. C. Brower, Newark, N. J.; Rev. C. H. St. John, Beloit, Kan.; George H. Brown, Hinsdale, N. Y.; Mrs. C. Kettle, Jersey City, N. J.; E. Cook, Owego,

N. Y.; Spencer Bostwick, Sayre, Pa.; Mrs. Scheur, New York city; Joseph Nelson, Sommerville, Mass.; William C. Wait, Elkhart, Ind.; John E. Schofield, Rochester, N. Y.; Fred. Allen, Trenton, N. J.; S. Holzman, Cincinnati, O.; Willis Mercerau, postal clerk; W. J. Cotterall, news agent; James P. Herrick, and R. W. Headley, brakemen, were slightly injured.

The first evidence of derailment was seen on the ties sixteen feet east of opening No. 86; leading to this was the mark of a flange on the top of the right or outside rail, commencing at a point about two feet east of the culvert; at the latter point the outside rail for a distance of eight inches was covered with portions of crushed stone, and at this point were found several pieces of broken stone, and shells or butternuts. The track at this point was examined soon after the accident and was found to be in perfect condition, with eighty pounds steel rail, ties closely spaced and in good life, and recently ballasted. This portion of the track was gauged soon after the accident and found in perfect condition. These statements are verified by the officials who were at the scene of the accident soon after its occurrence. The curvature of alignment at the point of derailment is two degrees, elevation two and one-half inches.

The statements of Superintendent Maguire, Division Roadmaster Van Frank and M. M. Lavery were positive as to the mark of flange on top of rail from a point two feet east of the culvert to a point sixteen feet east, where the mark ceased and was found on the ties. The statements of Superintendent Knibloc and Master Mechanic Ransom were positive as to the perfect condition of track gauge, because the test was made by their direction and under their supervision.

No. 328 was a first-class passenger engine; its forward truck wheels were the "Page," with steel tires, and had run but 8,975 miles. A careful examination of the forward truck and all other parts of the engine and tender was made by Master Mechanics Ransom and Lavery and nothing was found that in their judgment was in fault.

The evidence of the officials of the road who were present soon after this accident is conclusive that at the point where the first evidence of derailment was observed and for some considerable distance eastward the track was in perfect condition; that the forward truck wheels, driving wheels and tender trucks were in good order, with the single exception that a small portion of the flange of the left back wheel of the engine truck was broken off.

From the statement of facts that this accident occurred on a two-degree curve while the train was running at a speed of fifty miles an hour; that a careful examination of the locomotive fails to find any defect; that where the first evidence of the flange mounting the rail is seen there is also observed the dust and portions of broken stone, it is believed that some person or persons had been using these stones to crack butternuts on the rail, and either by carelessness or design left the stones on the rail; that this train, at a rapid rate of speed, struck these obstructions on the elevated rail of curve and that the shock raised the forward wheel on the right side of the engine truck sufficiently for the flange to ride the rail the distance indicated in the testimony.

The rapid increase of population along the lines of many railroads and the condition of such railroads as to the convenience of travel on foot, leads to the fact that many idle and vicious persons are constantly trespassing thereon. The statute governing trespass should be strictly observed and enforced. If this were done there is no doubt that the percentage of deaths and injuries from railroad accidents would be very materially decreased.

By the Board.

III.

IN THE MATTER OF THE ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD BETWEEN HASTINGS AND DOBBS FERRY, DECEMBER 24, 1891, AT 8.40 P. M., RESULTING IN THE DEATH OR FATAL INJURY OF THIRTEEN PERSONS AND THE MORE OR LESS SERIOUS INJURY OF FIVE OTHERS.

January 4, 1892.

The facts and circumstances attending this accident, as developed by testimony taken before a coroner's jury, the Board of Railroad Commissioners and by an investigation by a commissioner, were as follows:

It appears that about 6 p. m. a south-bound freight train in charge of James J. Ryan, conductor, and M. J. Murphy, engineer, passed Sing Sing station. A portion of this train, consisting of fifteen cars, had broken off from the main train about a mile and a quarter north of the station. At 6.16 p. m. a Croton local bound south was due. It was eighteen minutes late on arrival at Sing Sing, owing to the fact that it had pushed the detached cars of the freight train on to the Swamp siding about one mile north of Sing Sing. The conductor of the freight train, James J. Ryan, remained with the detached portion. The Croton local then proceeded to the station, received its passengers and started south. When near the middle of the prison tunnel, a short distance south, it came into collision with the forward part of the freight train, which was backing toward the station. It is stated that there were no lights on the rear car of the freight train nor any one to protect it. No information was given to the passenger trainmen of any obstruction ahead. The collision between the passenger train and the freight train was of sufficient violence to obstruct both tracks. The north-bound track was clear about 8.45 p. m.

From this statement it is evident that the engineer of the freight train, M. J. Murphy, was grossly careless in backing north on the south-bound track, more especially when he knew that a passenger train was overdue, without having his train in every respect safely protected. His conduct was in direct violation of specific rules of the company.

The information of this obstruction on the road was sent to the Grand Central station and received by Augustus Ossman, the train dispatcher. It appears that the superintendent had gone home and Ossman was left practically in charge of the movement of trains on this division of the railroad. He immediately telegraphed to the operator at Dobbs Ferry to hold all north-bound trains. He then ordered out the wrecking crew and telegraphed to Mr. McCoy, the superin-

tendent, of the obstruction. It appears, however, that he did not inform the station master in charge of the Grand Central depot, Walter Williams, of the obstruction until after 7 o'clock. The station-master, among whose duties it is to start trains, continued sending out the trains in their regular order until 8 p. m., with the exception of a Croton local, which was scheduled to leave at 7.35 p. m., but was held until after 8 o'clock.

The first train held at Dobbs Ferry was No. 89, the Croton local, which had left New York 5.40 p. m. There followed this train then consequently No. 5, leaving New York at 6.00 p. m.; No. 91 leaving at 6.10 p. m.; No. 29 leaving at 6.25 p. m.; No. 93 leaving at 6.40 p. m., and No. 45, the Niagara Express, leaving at 7.30 p. m. Each train, it appears, was stopped by the rear brakeman of the preceding train. When No. 45, the Niagara Falls Express, had come to a stop at about 8.15 p. m. at a point about one mile north of Hastings, Conductor George Wilkins sent Albert Herrick, the rear brakeman, to stop the succeeding train. The testimony shows that Herrick reached Hastings station somewhere about 8.30 to 8.35 p. m.; that he conversed with Charles Delanoy, the station agent; that Delanoy did not inquire why Herrick was there or take any precautions to prevent trains passing Hastings; that Herrick then set his lamps upon the platform and went into the station and continued his conversation with Delanoy and other persons. While Herrick was in the station the St. Louis Express, leaving New York at 8 o'clock, passed the station at a high rate of speed and collided with the rear of the Niagara Falls Express, entirely destroying the sleeping-car Gibraltar and killing and fatally injuring thirteen persons and more or less severely injuring five others.

Herrick has not been examined, having concealed himself since the disaster; but it is generally reported that he failed to flag the St. Louis Express, because he supposed that the Croton local which should have left New York at 7.35 p. m. would precede the St. Louis Express and stop at Hastings station on its regular schedule time. Assuming that Herrick will make this excuse, the Board has to say that it only slightly, if at all, mitigates his failure to signal the train. Under such circumstances as existed, it was Herrick's duty, under the rules of the company, to put torpedoes on the track and to signal any train that might have come along. There might have been a light engine or some other working train coming, and there was no justification for his going into the station.

It appears from the testimony that the Croton local, No. 95, which was to have followed the Niagara Falls Express five minutes thereafter, at 7.35 p. m., was held back until after the departure of the St. Louis Express, for the reason that the south-bound train, which was made up of the cars that were ordinarily used again to make up the local, was late, and that a new train had to be made up. Superintendent McCoy had given the station agent, Walter Williams, orders to make up a new train, but the notice had been so short that he had been unable to do it within the time given.

It also appears from the testimony that the dispatcher Ossman did not know that this Croton local had not left on time; that there had been no communication to that effect between him (Ossman) and Williams, the station agent. All these trains went out without any warning that an unusual state of facts existed.

It also appears that Ossman gave no notice to the station agent at Hastings that there was a block at Sing Sing and that trains had been held at Dobbs Ferry.

The operating department of the railroad company exempts Ossman from blame for the reason that the rules of the company did not require him to take any precautions other than he did. They say that the system of operating the road is what is known as the "open road" system. That is to say, each train runs on its own responsibility guided by general rules applicable at all times. It was stated to the Board that the train dispatcher's office had been established in recent years at the Grand Central station as an additional precaution — more especially for use in case of a blockade of one track when trains would have to be run in opposite directions on a single track. That while it was the general rule to get the time of trains passing certain stations it was by no means invariable. That the telegraphic facilities were very limited and that it was not always possible to get such time. That it was not considered necessary to do so, as the general rules were regarded as sufficient for the safe running of trains.

The recent collision on the railroad, and particularly the one under consideration, demonstrate that the general system was not sufficient to secure the safe running of trains. If the train dispatcher's office was established as an additional precaution why was this not an emergency to bring it into use? The Board is of the opinion that Ossman should have informed Williams, the station agent, immediately that trains were being held at Dobbs Ferry so that he could have given notice to engineers to be on the look-out, and that after Ossman did give such information Williams should have notified engineers, whether there were any rules to that effect or not. Such a course prudent men would have taken.

From the above statement of facts it is seen that no manner of protecting the rear of a train on this portion of the Hudson River Road existed, except the sending out of the rear brakeman.

In its report, dated November 12, 1889, in the matter of an accident on the New York Central Railroad near Sprakers station, the Board recommended that the company should take into consideration the subject of equipping the entire line with block signals, and particularly that portion between Spuyten Duyvil and Croton (the portion below Spuyten Duyvil being already equipped), and submit to the Board of Railroad Commissioners an estimate of the cost thereof, and of the practicability of the same, so as not to interfere with the punctuality of the service, particularly of local trains.

An answer was received from the railroad company saying that it had taken into consideration the subject of equipping the entire line with block signals. The work was not begun as soon as the Board understood it would be. It appears, however, by a letter from Mr. Depew in response to a communication from the Board, that in September last, after consultation with the third vice-president, he directed the Sykes signal to be extended from Spuyten Duyvil to Yonkers; that in October the executive committee authorized the extension of the signal from Yonkers to Oscawanna; that in December, and before this accident, the executive committee further directed that the system should be extended from Peekskill to Poughkeepsie; that con-

tracts had been let to the Johnson Railroad Signal Company for the Sykes signal system from Yonkers to Oscawanna, the blocks being on an average one and one-eighth mile apart; that from Oscawanna to Peekskill the company are using and testing the Hall signal system, the blocks being 3,000 feet apart; that contracts have been let for equipping the road from Peekskill to Poughkeepsie with the Sykes system, the blocks averaging two and a quarter miles apart; that the company are taking bids for equipping the road from Peekskill to Albany with the Sykes system, the specifications calling for forty blocks in a distance of sixty-nine miles; that the company expects the work to be completed as far as Peekskill within six weeks, the work between Albany and Peekskill to be completed as rapidly as the work can be performed; that the company has concluded to extend the system over the line from Albany to Buffalo; that it has not been determined what system it is best to put in between Albany and Buffalo, but that it is considering the merits of the Sykes, the Westinghouse pneumatic, the Hall, and the one that is in use on the Boston and Albany Railroad.

It may be said in this connection that the objection heretofore to equipping this railroad and others in the State with the absolute block system is that the traffic is likely to be seriously delayed, unless the blocks are very close together, under which circumstances the expense of operation is very great. If a train should break down in a block near New York, for instance, there would soon be a train in every subsequent block, and traffic, therefore, along the whole line would be suspended until the break down in the first block should be removed. Whereas, if there were no block system, and trains went on under cautionary signals, the trains would be gathered near the end of the route, and all go on substantially together, and the last trains, under such circumstances, would be delayed much less than if held at the upper end of the road. On some railroads what is termed permissive blocks are used. That is to say, in such a case as is supposed here, trains are permitted to move under cautionary signals at a low rate of speed. It is claimed, however, that under such circumstances the speed allowed is likely to be exceeded, and that rear collisions constantly occur, which claim is apparently sustained by the published figures. There appears to be no reason why rules limiting the speed to a safe rate should not be enforced. In view of the frequency of rear collisions of late there can be no question that too high a price is paid for the prompt movement of traffic. It is better that such traffic should be delayed than that these accidents should occur. The N. Y. C. & H. R. R. Co., however, proposes to put the *absolute block* stations so close together that it is believed the delay in traffic, if it occurs at all, will not cause serious inconvenience.

CONCLUSIONS AND RECOMMENDATIONS.

First. The Board finds that the immediate cause of this accident was the criminal failure of Albert Herrick to signal the St. Louis Express.

Second. That Augustus Ossman, the train dispatcher, failed to exercise reasonable caution in not notifying Station Master Williams at the Grand Central Depot immediately that trains were held at Dobbs Ferry, so that he (Williams) could notify engineers and conductors to be on the lookout.

Third. The Board finds that Station Master Willaims failed to exercise reasonable caution in not notifying engineers of departing trains that trains were held at Dobbs Ferry after his notification of that fact by Ossman.

Fourth. The Board finds that Charles Delanoy, station agent at Hastings, was censurable for not inquiring of Herrick the cause of his (Herrick's) being at the station so that he (Delanoy) could take precautions to warn trains.

Fifth. The Board finds that M. J. Murphy, engineer of the freight train which backed up the track near Sing Sing, causing the original blockade, was guilty of gross carelessness.

Sixth. The Board finds that in consequence of the largely increased number and speed of trains on the New York Central and Hudson River road the "open road system" of operating is insufficient to secure the highest attainable degree of safety, and approves of the determination of the company to equip its tracks with the absolute block system, as hereinbefore set forth in the letter quoted from the president of the company, and also to interlock all switches on the main track with distant signals, and recommends that it prosecute the work with the utmost dispatch.

By the Board.

IV.

IN THE MATTER OF AN ACCIDENT AT MOTT HAVEN JUNCTION, NEW YORK CITY, ON THE HARLEM BRANCH OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, DECEMBER 2, 1891, RESULTING IN THE DEATH OF TWO EMPLOYEES WHO WERE WALKING ON THE TRACK, AND SLIGHT INJURY TO SEVERAL PASSENGERS AND EMPLOYEES.

Albany, January 18, 1891.

The facts and circumstances attending this accident, as developed by an investigation by the Board, are as follows:

On December second, at 5.28 p. m., as train No 173, a White Plains local on the Harlem branch of the N. Y. C. & H. R. R. R., was passing Mott Haven Junction, the rear truck of the rear car, No. 772, mounted the point of the switch leading to the Hudson River Railroad's tracks, and in consequence thereof the car was overturned. William Fleming, G. Lahr and Z. McKenna, who were walking along the side of the Harlem tracks, were struck by the coach and killed. The persons injured were in the overturned car.

Mr. William Buchanan, general superintendent of motive power of the N. Y. C. & H. R. R. R., states that the car truck and switch were carefully examined and found to be in good condition. This being the fact, an examination of all the parts of the pneumatic system of changing switches at this point was made, and it was found that two short connecting rods on the south end of the safety bar of the switch were broken. It is believed that the breaking of these rods allowed the point of the switch to open sufficiently to catch the flange of a wheel on the rear truck, thus causing the accident as above stated.

The Board recommends that these switches be subjected to frequent and careful inspection.

By the Board.

V.

IN THE MATTER OF A REAR END COLLISION AT TARRYTOWN ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, DECEMBER 1, 1891, RESULTING IN SLIGHT INJURIES TO FIVE PERSONS.

Albany, January 18, 1892

The facts and circumstances attending this accident as developed by an investigation by the Board are as follows:

On December first a Tarrytown local north-bound passenger train arrived at Tarrytown station, discharged its passengers and at 6.47 P. M. commenced to back from the north-bound track to the middle track south of the station to allow fast express train No. 5, north-bound, to pass; while in the act of backing it was struck side-wise by train No. 5, which is scheduled not to stop at this station, resulting in the injury of five passengers.

The agent at Tarrytown stated that the semaphore signal south of the station about three-quarters of a mile was at danger as was also the Hall automatic electric signal which is located about 400 feet south of the semaphore and in line with it. J. Donahoe, the engineer of train No. 5, states that all the signals approaching Irvington, the first station south of Tarrytown, and the signals approaching the latter place were clear; that going into Tarrytown he saw a train nearly opposite the station, but that all signals being clear he thought it was on the middle track; that he received no signal until he was about twenty car lengths distant and that he was then signalled from the train by a white lamp; that the speed of the train was about fifteen miles an hour when the accident occurred; that he sent his fireman back and he found the electric signal out.

The semaphore distant signal is about three-quarters of a mile south of Tarrytown and is operated by a lever located at a point a few feet south of the depot where the cross-over from the north-bound track to the middle track commences. The Hall automatic electric signal is 400 feet further south than the semaphore. The posts upon which these signals are placed are in line, the latter, however, is several feet higher.

As above stated, the agent at Tarrytown says that the distant signals were displayed at danger. Charles Hall, engineer, J. Decker, engineer, J. Donahoe, engineer of train No. 5, and his fireman, all positively state that the Hall signal light was out. Donahoe also says that the semaphore when he passed it was at "safety."

A careful inspection of the locality was made by a member of the Board, and it is believed from the statements of officials and employees that the Hall signal light was out and that the semaphore was not turned to danger until the local commenced to back on the middle track; it was then too late, for No. 5 had passed the signal.

This local train arrived at Tarrytown at 6.44, three minutes ahead of the express, and there appears to be no excuse for not setting the semaphore signal at danger when the local arrived, more especially as a fast express that was not scheduled to stop was due in a few minutes.

It appears, therefore, that the person in charge of the semaphore signal was grossly negligent in not setting it at danger as soon as the local arrived at the station.

By the Board.

VI.

IN THE MATTER OF A REAR COLLISION ABOUT ONE AND A HALF MILES EAST OF CANASTOTA ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NOVEMBER 22, 1891, AT 9.05 P. M., BY WHICH TWO EMPLOYEES WERE INJURED AND TWO UNKNOWN PERSONS RIDING ON THE PLATFORMS OF EXPRESS CARS KILLED.

Albany, February 23, 1892.

The facts in regard to this collision are substantially as follows:

On November 22, 1891, an east-bound freight train of fifty cars in charge of Leonard Thornton, conductor, left De Witt at 6.05 p. m. It arrived at Canastota at 7.05, and there received orders to cross over to passenger track No. 1 and go to Rome ahead of express train No. 32, due at Canastota at 8.54 p. m. It left Canastota on track No. 1 at 8.20, or thirty-four minutes ahead of the express train. At a point about one and one-half miles east of Canastota the freight train was stalled and was run into by the express train, resulting in the death of two persons, whose identity has not been learned, and serious injury to E. Baird, fireman, and slight injury to engineer Parks, of the passenger train. The locomotive and two forward express cars of the express train were destroyed by fire after the wreck, and in the debris were found the remains of portions of two bodies. From the fact that none of the trainmen were missing, it is believed that the bodies were those of persons who had jumped upon the platforms while the express train was running slowly through the streets of Syracuse.

Conductor Thornton of the freight train testified that before his train stopped he ordered the flagman, Brown, to go back and stop all trains; that he looked back several times while engaged in coupling up his train, which had broken in several parts, and saw his flagman back with a red light about half a mile; that he saw the red light swinging as the express train approached; that it then disappeared and that he heard two torpedoes explode about eighty rods from the rear of his train.

R. H. Honion, conductor of the express train, testified that his train consisted of nine express cars and one empty mail car, which was on the rear; that he passed Canastota at 9.03 and that about two minutes afterwards the collision occurred; that the locomotive and the two first express cars were destroyed by fire after the wreck; that a few moments after his train stopped he saw a man with two lanterns that were not burning at the rear of his train.

John Dingwall, trainman of train No. 32, testified that as soon as his train stopped he went back and that about the distance of two lengths of his train back he met a man running east who had two lanterns in which the lights were not burning.

John Myers, watchman at Canastota station, testified that the freight train passed forty-three minutes before the arrival of the express train at that station.

Thomas E. Park, engineer of the express train, testified that when about three quarters of a mile east of Canastota on a curve he saw a red and green light about five or six hundred feet ahead and that he made every effort to stop his train; that when about 300 feet from the caboose he saw a white light swung on track No. 2, and about the same moment heard torpedoes explode.

F. S. Bedelson, operator on the West Shore Railroad, testified that he was in a switch shanty at Canastota about ten or fifteen minutes before the express train passed there; that he saw a red light on what is called the Wampsville grade, below Canastota, four times, the last time being about seven minutes before the express train passed.

The rule of the company governing an emergency of this kind is, that the flagman shall go back immediately at least half a mile; that he shall carry torpedoes for use, in addition to his other signals. It appears from the testimony of the conductor of the freight train that an interval of thirty-five or forty minutes had elapsed from the stopping of his train until the collision occurred; this should have been ample time for the flagman to get back to Canastota and have the station employes stop the express train. It appears, however, that he did not get back more than 1,400 feet, and it is believed that several minutes before the express train arrived, his lights were out, and the first intimation that engineer Parks had, when he rounded the curve, that a train was on his track, was the tail-lights on the caboose of the freight train, and the white light he saw was the lantern of the conductor of the freight train who was on track No. 2.

Some conflict of testimony is apparent as to the distance the torpedoes were placed in rear of the freight train. Conductor Thornton testified that it was about eighty rods, engineer Parks, that it was about 300 feet, and the brakeman of the freight train, that it was but a few seconds from the time the torpedoes exploded until the collision occurred. The evidence, however, clearly substantiates the statement of engineer Parks.

It appears from the statements of employes that an unusually strong wind was blowing from the south and it was difficult to keep signals burning; this probably was the reason that the flagman's lamps were not burning. It is proper to say that the flagman, whose name is Brown, did not appear before the coroner to testify as to his actions on this night; this would seem to be a confession of negligence.

The Board is of the opinion that flagman Brown was responsible for this accident, for these reasons:

First. He should have placed torpedoes on the track in the rear of his train at least one thousand feet.

Second. That being so near a station he should have gone there and notified the station man of the fact that track No. 1 was obstructed.

By the Board.

VII.

IN THE MATTER OF A COLLISION AT FISHKILL STATION ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, DECEMBER 15, 1891, AT 6.13 P. M., IN WHICH TWO EMPLOYEES WERE KILLED, AND EIGHT PASSENGERS AND THREE EMPLOYEES MORE OR LESS INJURED.

Albany, February 23, 1892.

The facts and circumstances attending this accident, as developed by an investigation by a coroner, by a member of this Board, and by statements of the officials of the road, are as follows:

On December 15, 1891, about 6 P. M., information was received at

Fishkill station that a north-bound local passenger train had become disabled a short distance north of the station. The distant signal south of the station was then set at danger to stop all trains north-bound, and orders were then sent to a switching crew employed in the freight yard about one-quarter of a mile south of the station to get on to the south-bound track, come to the station, and then cross over to the north-bound track, couple on to the disabled train and pull it back out of the way of train No. 19, a northbound limited.

It appears that the crew of the switch engine proceeded to act under these instructions, and while their switching engine No. 494, with two cars of coal, was on the crossover leading from the south-bound to the north-bound track, south of the station, it was run into at 8.13 P. M. by train No. 19, limited express, derailing both engines, wrecking several cars and resulting in the death of James Kelly, engineer, and John Smith, fireman of the passenger train, and the more or less serious injury of eight passengers and three employees.

It appears from an inspection of the locality, that south of Fishkill station, for about 600 feet, the line is comparatively straight; it then curves sharply to the east through a rock cut, and about 400 feet from the end of this curve the distant signal is erected. The lever that moves this signal is located just south of the station, and is of the interlocking pattern, operated by men stationed there for that specific purpose. Owing to the fact that the switchman can not see the distant signal on account of the curve and cut, a column about six feet high has been erected close to the interlocking lever, and placed on top of this column (which is a movable one) is a lamp provided with red and white lenses. This column is connected with the distant signal by a cable, and so constructed that any movement of the distant signal by the switchman places the tell-tale lamp signal in the same position.

From a statement of the agent it would appear that there was no doubt but that this semaphore signal was at danger when No. 19 passed, and, furthermore, the engineer of the switch engine testified that when passing it on his way to the station it was red. Approaching this signal from the south is a straight track for a long distance, and nothing in the testimony or in the statements made satisfactorily explains why Engineer Kelly did not see the signal and be governed thereby. It is said, however, that owing to the location of the signal it can not be seen plainly by an engineer on a northbound train until close to it. If such is the fact it is probably due to the leaning toward the rails of the line of telegraph poles along the road. It is evident that the view of distant signals to an approaching train should be as clear and as long as possible.

The Board recommends that the semaphore distant signal south of the Fishkill station on north-bound track, be located at least 400 feet south of its present location.

By the Board.

VIII.

IN THE MATTER OF A HEAD-ON COLLISION ABOUT ONE-HALF MILE NORTH OF SMYRNA ON THE NEW YORK, ONTARIO AND WESTERN RAILWAY ON JANUARY 6, 1892.

Albany, April 11, 1892.

The facts and circumstances attending the above accident, as developed by an examination of the railroad officials, train employes and the train orders, are as follows:

On January 6, 1892, at 1.40 A. M., engineer Martin Sheedy received orders to take a light engine from Norwich to Oswego; he went to the superintendent's office and there received the following order:

"NORWICH, January 6, 1892.

"For Norwich, to C. and E. of engine 31:

"Engine 31 will run extra from Norwich to Oneida.

"Time received, 1.40 A. M. O. K. given 1.40 A. M.

(Signed) "SHEEDY,

"Engineer train 31.

"Complete, 1.40 A. M."

Upon the receipt of this order Sheedy registered at Norwich at 1.40 A. M. and then ran the engine north to North Norwich station, about five miles, and there took the side track in order to allow No. 6, a south bound passenger train, which was due at 2.02 A. M., but was about twenty-five minutes late, to pass. He left North Norwich station at 2.27 A. M., and at a point one-half a mile north of Smyrna his engine collided with regular train No. 68, south bound, which was due at North Norwich at 2.26, one minute before engine No. 31 left this station. Martin Sheedy, engineer, and Adelbert Cady, fireman of light engine No. 31, and Fred. Young of train No. 68, were killed in the collision.

From the testimony of G. H. Paul, head brakeman of train No. 68, who was riding on the engine, it appears that his train was running about twenty miles an hour; that he saw the headlight of the approaching engine about seventy rods ahead, and he gave the alarm and jumped, followed by the fireman; that at about the time they struck the ground the collision occurred. This statement is verified by the fireman, who, in addition, states that engineer Young was in the act of reversing his engine when he (the fireman) jumped.

From the evidence it is apparent that the light engine was running at a high rate of speed. Approaching the point where the collision took place there is a high bluff through which the track curves about five degrees; this bluff and curve obstructed the view from train No. 68 so that the light engine could not be seen until it had passed around the curve; train No. 68 was then but seventy rods distant, and a few seconds sufficed to bring them together. The rules of the company governing the running of engine 31 on this night are as follows: "Rule 103. Extra trains are inferior in class to regular trains and must be run cautiously. Rule 109. A train of inferior class must in all cases

clear main track ten minutes before the time of train of superior class. Rule No 2 (on time-card). On single track all trains running south or east have an absolute right of track over trains of the same or inferior class running in the opposite direction."

Train No. 68 was a regular train, leaving Utica at 11.15 P. M., arriving at Randallville, the junction of this division with the main line, at 1.15 A. M., and scheduled to arrive at Smyrna at 2.26 A. M., and it had absolute right of way over extra No. 31. It will be seen that the order given to Sheedy at Norwich had been understood by him as "O. K.," and it gave him no rights other than those given to extra trains by rule No. 103. There is no question as to the absolute right of way of train No. 68 on this date, nor is there any doubt as to the course that should have been taken by Engineer Sheedy, had he properly observed the order he received at Norwich. When he arrived at North Norwich to meet train No. 6, south-bound, due there at 2.02 A. M., it was about twenty-five minutes late, so that it was 2.27 A. M. when it passed. Train No. 68 was due at North Norwich at 2.25 A. M., and it was clearly the duty of Engineer Sheedy to have remained on the siding with extra No. 31 until No. 68 had passed. The only conclusion to be arrived at is, that Sheedy overlooked or forgot No. 68; this seems probable from the fact that after leaving North Norwich he passed three switches, either of which he might have taken.

The officials of the road testify to the capability and good record of Sheedy and Cady, and submit no reason for the collision, other than that the crew of No. 31 forgot or overlooked train No. 68. At the examination it was said, that Sheedy had, for some time previous to the date of the accident, been employed on another division of the road, and it might be inferred that he was not familiar enough with this section of the line to be sent out without a pilot; it was stated, however, that Fireman Cady had been employed on this division for several years in continuous service, and that Sheedy was familiar with this part of the road.

CONCLUSIONS AND RECOMMENDATIONS.

The Board finds that the collision which occurred one-half mile north of Smyrna on the New York, Ontario and Western Railway, on January 6, 1892, was caused through Engineer Martin Sheedy forgetting or overlooking train No. 68, which had the absolute right of way, as per the rules of the company.

The Board recommends that the transfer of employes from one division to another on any line of railroad should be avoided as much as possible.

By the Board.

IX.

IN THE MATTER OF THE EXPLOSION OF THE BOILER OF LOCOMOTIVE No. 113, OWNED BY THE LONG ISLAND RAILROAD COMPANY, AT OYSTER BAY, SEPTEMBER 9, 1891.

Albany, April 18, 1892.

The facts and circumstances attending this accident, as developed at several sessions of a coroner's jury, from statements of officials and

from a personal inspection of the wrecked boiler by a member of the Board soon after the explosion, are substantially as follows:

On the morning of September ninth, engine No. 113 was attached to a passenger train which was scheduled to leave Oyster Bay at 7.08 A. M.; while standing at this station, about 7.06, the explosion occurred, instantly killing James Donaldson, engineer; Townsend Dickerson, fireman; and Michael Maloney, brakeman; Edward H. Swan, Jr., passenger, and Alfred Jones, conductor, were injured.

A large amount of expert and other testimony was taken at the sittings of the coronor's jury. G. A. Thompson, master mechanic of the Long Island Railroad, testified as follows: "Locomotive No. 113 was built by the Rogers Locomotive Company in June, 1888, as a first-class engine; the shell of the boiler was seven-sixteenths steel, the crown sheet and side sheets of the fire box were three-eighths, and the flue sheet one-half inch. This engine was in the shop for general repairs in February, 1891. At the examination made soon after the explosion I found that it was the crown sheet held by bridge bars that gave away. I examined all the stays and everything thoroughly, and found the crown sheet all corrugated, as if it had been nearly white before it had given away; in addition, there is every evidence of its being hot, for it was blue on the surface and on the edges where torn. I found no evidence of weak stays; the crown stays, however, gave evidence of having been hot, they were elongated and nuts were torn off. The construction of this crown sheet was the very best; it had a cambre of one and one-half inches from side to side, in addition to the strong crown bars spanning it. My opinion is that low water was the cause of the explosion."

Paul Grimm, engineer of the National Starch Works, testified as follows: "I examined the crown sheet of this boiler and found unmistakable signs of its being overheated; it had the appearance of a hair-cloth lounge, the buttons holding the cloth back, the other parts bulged out, clearly showing that the stay bolts held to the last. I believe this accident was caused by the engineer and firemen being deceived by the waterglass, the men thought they had water when in fact they did not; I believe the watchman and all were deceived by it, and that this explosion was caused by overheating the crown sheet."

James A. King, boiler maker, employed by the Long Island Railroad, testified that this engine had been in the shop for general repairs in February, 1891, and received a thorough examination; that he examined the wreck soon after the explosion and in his judgment the crown sheet had been red hot and the cause of the explosion was low water.

G. W. Demarest testified that the day before the accident he made slight repairs to a leaky stay bolt in the fire box and did not observe any defect about the boiler whatever.

C. I. Howe, road foreman of engine of the Long Island Railroad, testified that he examined the wreck soon after the explosion; that he saw the crown sheet and that there was no question but that it had been hot.

Albert Ritchie, watchman in the roundhouse at Oyster Bay, testified that No. 113 leaked badly several nights before the explosion from a stay bolt in the right side sheet of the fire box; that on this date at 6.15

A. M. he tested the gauge cocks, found sufficient water and seventy pounds of steam; that at 6.30 the fireman took the engine from the roundhouse with a pressure of 130 pounds of steam.

Townsend Burt testified that he had an experience of ten years in engine service; that he examined the wreck about twenty minutes after the explosion occurred; that the steel used in the construction appeared to be good; that the crown sheet was torn in four places and the fractures looked bright; that he examined the stay bolts of the side sheets and the condition of the threads and that he found them in good condition, in fact the threads on the stay bolts were practically intact; that he did not notice any stay bolts that gave evidence of being broken before the explosion, and that there was no scale on the crown sheet.

It would appear from the testimony that there can be no doubt as to the cause of this explosion. The color of the crown sheet on the surface and where fractured, its corrugated condition, enlarged stay bolt holes in crown sheet with threads but slightly damaged, the elongated stay bolts, the impression of the nut on stay bolt into the crown sheet, and the fact that not a particle of scale was seen on the crown sheet although this boiler had been in service since the general repairs in February, 1891, must lead to the conclusion that the crown sheet had been uncovered and hot.

The circumstances previous to the explosion were as follows: A stay bolt had been leaking for several days, and on Tuesday night it leaked a stream across the firebox at a pressure of seventy pounds; about 6.30 A. M. on this date, when the fireman took the engine from the roundhouse it had a pressure of 130 pounds. After careful consideration, it is believed that when the locomotive was taken from the roundhouse the water was low in the boiler, and that the movement of the engine to the water plug, thence to the station, the use of the blower (all being movements which used water), in addition to the leaking stay bolt, soon reduced the water line below the top of the crown sheet, the latter then became heated and soft and when the maximum pressure of 160 pounds was obtained the crown sheet in its heated and weakened condition was not able to stand this pressure.

The conclusions arrived at by the Board as to the cause of this disaster, are in accord with the testimony of the experts, officials and employees. It is also believed that the opinion of Paul Grimm, that "all parties were deceived by the waterglass showing water above the true line" is probably correct. This is in conflict with the testimony of the watchman, Mr. Ritchie, who positively testified that the water indication in the glass was correct.

The volume of testimony is apparently in line with the evidence of the experts, and the condition of the several parts of the boiler, after the explosion. The fact that the engine was comparatively new and had been in service but seven months since its thorough repair, must lead to the conclusion that the explosion was caused by allowing the water line to get below the crown sheet

By the Board.

X.

IN THE MATTER OF THE EXPLOSION OF THE FIRE-BOX OF ENGINE No. 48 OF THE LONG ISLAND RAILROAD, AT LONG ISLAND CITY, APRIL 6, 1892, RESULTING IN THE DEATH OF FOUR EMPLOYEES.

Albany, July 5, 1892.

The facts and circumstances attending this accident, as developed by a personal examination made by a member of the Board, from statements of officers and employes of the railroad company, and from evidence taken before Coroner Lindsay of Brooklyn, and Coroner Meiners of Long Island City, are substantially as follows:

On April 6, 1892, engine No. 48, in charge of Andrew Walker, engineer, and T. Van Luren, fireman, was in service on a gravel or tie train; while at rest at South Side dock a portion of the right side sheet of the fire box pulled away from the stay bolts (about fifteen in number), allowing steam and water to escape into the fire box and through the fire box door into the cab, scalding Andrew Walker, who died April tenth, T. Van Luren, who died April sixteenth, James Lush, who died April sixth, and James Clowie, who died April sixteenth, all of whom were in the cab when the explosion occurred.

At the coroner's inquest, S. F. Prince, general superintendent of motive power, testified that engine No. 48 was in the shop for general repairs in May, 1890; that at that time the lower half of the fire box all around was replaced by new copper sheets, five-eighths of an inch thick; that the stay bolts used were copper, and one and one-eighth inches in diameter; that the fire box was of usual form, with a brick arch; that the crown sheet and flue sheet were steel; that after the accident he tested the pop valves and found them in perfect condition, one releasing at 140 pounds pressure, the other at 145 pounds; that in his opinion the cause of the accident was the thinning of this copper sheet, which was worn down to five-sixteenths of an inch, or half its original thickness, and that this was evidently due to the external action of the coal in the fire box; that the sheet commenced to wear at a pin point from the top of the brick arch down along the stay bolts and then thinned out to the point where it let go.

J. A. King, a boilermaker, testified that he had put in at least eight fire boxes of this kind; that the copper sheets put in this box under his supervision, as far as he knew, were good; that the life of such fire boxes is from four to five years; that he examined the water leg of this boiler and found no scale or mud seven inches above the mud ring.

It appears from the evidence that it is a rule of the Long Island Railroad Company that a note of all repairs necessary to a locomotive shall be entered in a book kept at each shop for such purpose, which book is in the custody of the foreman, and that on the night before the accident a verbal report was made by the engineer of this engine as to a leaky stay bolt and arrangements were made to have it repaired the following day. It is probable that this leaky bolt was one of the number that pulled out, and without doubt if this report was entered on the book and a boilermaker detailed to make the repairs he would have discovered by the hammer sound that this sheet was thin.

It is probable that the cause of this sheet becoming so thin was, in a measure, the strong blast on the fire necessary to make steam enough to enable the engine to do its work in the regular train service prior to the time it was assigned to this gravel train, and that the constant movement of fresh coal against the sheet and the friction of particles of half-burned coal and other substances against this copper sheet, up to the point of passing over the brick arch, reduced it to the condition it was found in. Several of the stay bolts were drilled and the copper was found in good life. No evidence of scale was observed at the point of explosion.

The Board believes that frequent and careful examinations of all boilers in the future will prevent such accidents, and the officers of the Long Island Company assure the Board that such examinations will be made.

RECOMMENDATIONS.

The Board recommends that the Long Island Railroad Company designate some person or persons to examine the locomotive boilers in use on its lines at least once a month, and to record in a book kept for such purpose the date of examination and the condition of the boiler at each inspection.

By the Board.

XI.

IN THE MATTER OF THE DERAILMENT OF OFFICIAL CAR NO. 502,
ATTACHED TO TRAIN NO. 8 ON THE NEW YORK, LAKE ERIE AND
WESTERN RAILROAD, JUNE 13, 1892.

Albany, September 26, 1892.

The facts and circumstances attending this derailment, as appear from a personal examination of the locality by a member of the Board and from statements of officials and employees, are as follows:

On June 13, 1892, when train No. 8, east-bound, consisting of a locomotive, one postal car, one combination car, one coach, a dining car, four Pullman cars and official car No. 502, occupied by Governor Flower, had reached a point 800 feet west of the west end of Stickney's curve, or about 17,500 feet west of Rathboneville station, the rear truck of the rear car, No. 502, was derailed on a tangent while running at a speed of about thirty-eight miles an hour; in its passage over the ties the truck was torn from its center pin and safety chains and the rear end of the car was thrown over on the west-bound track, in which position it was drawn until the train stopped. The distance from the place where the first indications of derailment were seen to the point where the train stopped was 2,900 feet.

Engineer Welch states that at a point half a mile west of where the first marks were seen on the ties, he was running about fifty miles an hour; that he applied the brakes and reduced the speed of the train to thirty-eight miles an hour; that he heard no alarm from the air whistle in the cab until his engine and several cars were on the curve. At this point the air whistle sounded and he immediately applied the brakes, and that there were none applied until he applied them.

The track, where the first evidence of derailment was observed, was in good condition — eighty-pound rail, well ballasted, ties closely spaced and in good life. Car No. 502 was carefully examined and nothing was found which would aid in determining the positive cause of the derailment. The records of the weather bureau at this date show that the thermometer indicated ninety-five degrees in the shade. It was thought that this excessive heat had caused the track to "buckle;" this theory is deemed improbable, however, for if such was the fact the derailment would have occurred before the last truck of the rear car passed over. From the statement of Engineer Welch that he applied the brakes one half mile before the accident occurred, in order to reduce the speed of the train around Stickney's curve, and in the absence of any positive information as to the cause of the accident, it is believed that when the brakes were released by the engineer that the brake on the last truck did not properly release and that the friction caused a brake shoe to get hot and break and thereby allowed a part of it to fall under the wheels.

It appears from a statement of officials of the road, that the distance from the point of derailment to where the train stopped was about 2,900 feet; it also appears from the statement of the engineer that he was about 200 feet on the curve when the whistle sounded in the cab and he applied the brakes, or about 1,000 feet east of the first mark of the wheels on the ties; this would leave a distance of 1,900 feet that the train ran with brakes applied and the truck of the rear car off the track. Five cars in this train, four Pullman's and car No. 502, were equipped with six-wheeled trucks with brakes on the outside wheels only. It is believed that if every wheel on these cars had had a brake attached a quicker stop would have been made, much less space covered and the corresponding elements of danger avoided. The construction of and material in this car were admirable, and to these facts may be attributed the safety of its occupants.

RECOMMENDATIONS.

The Board recommends,

First. That the railroad company and all other corporations running cars with six-wheel trucks over its lines, take into consideration the subject of equipping them with a brake on every wheel at the earliest practicable moment.

Second. That the brake power applied to the wheels of these heavy cars be so adjusted by leverage and piston travel that the quickest possible stop in an emergency will be the result.

By the Board.

XII.

IN THE MATTER OF A HEAD-ON COLLISION NEAR RED HILL SWITCH ON THE NEW YORK ONTARIO AND WESTERN RAILROAD, JUNE 26, 1892, IN WHICH TWO EMPLOYEES WERE KILLED AND ONE INJURED.

Albany, September 26, 1892.

From statements of officials of the road and an examination of the train orders on this day, the facts attending this accident appeared to be as follows:

On June twenty-sixth Charles H. Wheeler, in charge of light engine No. 73, left Middletown with orders to run extra to Fallsburgh, a station thirty miles north, and to meet extra No. 92 at Summitville; on arriving at the latter station Wheeler found that No. 92 had not yet arrived; he then put his engine on the side track and while standing there he was called to the office and received orders to meet train No. 30, a regular south-bound express freight, in advance of time at Sandburgh switch. Before he left Middletown Wheeler asked the dispatcher if No. 10 was on time, and was informed that it was; after receiving his orders at Summitville he asked the operator how No. 10 was and was again told it was on time; he then proceeded and at a point about one mile north of Red Hill switch he collided with train No. 10, by which Frank Fosgate of Norwich and James V. Scott of Middletown were killed, and Andrew O'Neil seriously injured.

Wheeler's orders before leaving Middletown was to run "extra" to Fallsburgh, a station north of Red Hill switch, about twelve miles. This gave him no rights whatever over regular trains of any class. Train No. 10 was a regular and for many years known as the "milk train," and it had absolute right of way. The fact that Wheeler asked at Middletown and Summitville as to the location of No. 10, must lead to the conclusion that after leaving Summitville to make his meeting points as by special order, he forgot No. 10.

It is a rule of the New York, Ontario and Western Railroad that all orders must be understood by all the train employes receiving them before starting, and that when an engine is moving light the engineer shall read his orders to the fireman.

From the facts as above set forth, it is evident that engineer Wheeler was responsible for this accident.

By the Board.

ACCIDENT INQUIRIES.

CENTRAL NEW ENGLAND AND WESTERN.

February 25, 1892 — Trainman George Robbins, while leaning out of cab window as his train was pulling out of Poughkeepsie, struck his head against stand pipe, receiving injuries which resulted in death. Inquiry shows that the distance from the outside of the rail to the stand pipe at the place of accident is 3 feet 5½ inches.

DELAWARE AND HUDSON CANAL COMPANY.

October 7, 1891 — In a derailment, which occurred near Binghamton, one employe was killed and two injured. C. D. Hammond, superintendent of the company, in reply to a communication from the Board, says: "The derailment was caused, 'or is supposed to have been caused,' by sharp flange on one of the wheels of pony truck of engine, causing the forward truck to enter the switch while the drivers followed the main track, overturning the engine and tank."

October 28, 1891 — Passenger train No. 155 ran in on a side track in the Mohawk yard and collided with a car standing there. A switch had been misplaced. Two employes were injured. In reply to a letter from the Board, asking who was responsible for misplaced switch, and what, if any, discipline had been administered, the company says that they were unable to locate the fault, so, consequently, could not administer any discipline.

January 5, 1892 — John Hogankamp, while attempting to drive over the Rockefeller crossing at Delmar, was struck and fatally injured. Inquiry elicited the fact that the crossing was a dangerous one, and that the company had made a proposition to the town authorities to join them in doing away with the present grade crossing and substituting an overhead crossing for it.

January 20, 1892 — At Worcester train No. 34 ran into rear end of fifth section train No. 36, the flag of the latter not being back sufficiently far to allow train No. 34 to stop. Engineer E. J. Albert jumped and was slightly injured. Both the conductor and flagman of train No. 36 have been dismissed from the company's service for not having properly attended to their duty.

February 9, 1892 — Mr. and Mrs. Walley, of Slingerlands, were killed while crossing the track at that place. Inquiry shows that the view is entirely unobstructed in every direction for a distance of over half a mile.

June 27, 1892 — A passenger on train No. 4 was slightly injured in a derailment at Saratoga station. The Board wrote for the circumstances in detail and received in reply the following:

ALBANY, N. Y., July 13, 1892.

WILLIAM C. HUDSON, Esq., *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—Replying to your favor of the sixth inst. The circumstances connected with the accident at Saratoga, June twenty-seventh, were that the switchman turned the switch between the trucks of the last car in the train. It was, as you say, an exact duplicate of an accident which occurred last summer, and by the same switchman. Of course nothing can be done to prevent a recurrence, as the fault is in the switchman's head. He has, however, been dismissed from the company's service.

Yours truly,

C. D. HAMMOND.

LEHIGH VALLEY.

November 2, 1891 — Train No. 297, while passing train No. 30, which was standing on the siding at Larranna, engine mounted rail, and ran into train No. 30, injuring the engineer and brakeman. In answer to a letter from the Board, the company state that they are unable to account for the accident. There was nothing apparently wrong with the track, either before or after derailment occurred.

January 12, 1892 — Lehigh Valley extra engine No. 516 was standing still at Castile, one train length and a half inside of the yard limits, when extra engine No. 607 collided with rear end, killing Martin McCarthy and George Woodruff, employees. Wreck caught fire from caboose stove. An investigation by the Board shows that the company, at the time of writing, was unable to account for the collision. "The trains are run entirely under the rules and management of Erie officers, and the men are disciplined in accordance with their directions."

February 12, 1892 — Milo Smith was killed and William Morrow seriously injured. Caused by jumping from caboos- of train No. 297 at the time snow plow engine No. 229 ran into them at Aurora. The company, in reply to a communication from the Board, wrote the following letter :

SAYRE, Pa., February 18, 1892.

WILLIAM C. HUDSON, Esq., *Secretary Board of Railroad Commissioners, Albany N. Y.:*

DEAR SIR.—Answering yours of the seventeenth about the Aurora accident. At the coroner's inquest over the body of Milo Smith the evidence was clear that Engineer Daniels and Conductor Eggleston, who were in charge of the snow plow, were entirely responsible for the accident. The jury found them guilty of criminal negligence; they are now under indefinite suspension, pending any legal action against them.

Yours truly,

W. STEVENSON.

June 23, 1892 — Mrs. Asa Leonard while attempting to drive over the track at Campton crossing, about three miles north of East Waverly, was struck and badly injured by train No. 3. Inquiry elicited the fact that the crossing was not protected by either gates or flagman; and that in one direction the view is partly obstructed.

LONG ISLAND.

December 8, 1891 — Frank T. Gilbert and James Styles, of Brooklyn, were attempting to cross the track at Ozone Park station, when struck and injured by train No. 995. Inquiry shows that since the accident, both gates and flagman have been placed at the crossing.

June 11, 1892 — Henry Feltman, while driving across the tracks at Underhill and Atlantic avenue crossing, was struck by train No. 600 and seriously injured. Benjamin Norton, in reply to a letter of inquiry from the Board, sent a letter he had received from his general superintendent.

LONG ISLAND CITY, N. Y., June 13, 1892.

BENJAMIN NORTON, ESQ., *Second Vice President and General Manager*:

DEAR SIR.—I return herewith letter from William C. Hudson, Secretary Board of Railroad Commissioners, and beg to say that the crossing at Underhill and Atlantic avenue is protected by gates, but on June eleventh, the date of the accident, when train No. 600 came along, which is the first train west in the morning, the flagman was not on hand, and the team went across, the gates being up. The flagman, who should have been on duty at that time, is one of the best flagmen on the Atlantic division, but was up the night before, owing to sickness in his family. He has been taken off, and the engineer of train No. 600 was suspended for running past a crossing when the gates were up.

Respectfully,

W. H. BLOOD.

NEW YORK CENTRAL AND HUDSON RIVER.

October 21, 1891 — John H. Walrath, fireman on engine No. 450 was slightly injured by jumping from his engine, just before it ran into freight train near Tribes Hill. A letter of inquiry shows that flagman of freight train was responsible for not properly protecting his train; he has been discharged, and the engineer of engine No. 450 has been suspended for running at too high rate of speed.

October 22, 1891 — A Lake Shore and Michigan Southern engine was standing on main track, and was run into by a New York Central train. One employe was slightly injured. The Board wrote and asked by what authority was the L. S. & M. S. engine on main track, and while there, why was it not protected. The following letter was received in reply:

NEW YORK, December 10, 1891.

WILLIAM C. HUDSON, ESQ., *Secretary Board of Railroad Commissioners, Albany, N. Y.*:

DEAR SIR.—Your favor of the eighth received and contents noted. I beg to advise you that the exact location of the collision at Buffalo on October twenty-second was on the Y or connecting track between the Lake Shore yard and our main track. A number of west-bound passenger trains approaching Exchange street station run in on to the Lake Shore Y, and back from that point to Exchange street in order to avoid turning the coaches and the sleeping cars that go west *via* the Lake Shore road. Train No. 17, the train in question, was exactly on time. The Lake Shore Company put a pilot on the engine of No. 17 at Swan street, and he was riding on the left hand side of the engine at the time of the accident. Engineer Mack was running cautiously, and the pilot was on the look out for a white light, which is given as a signal that the track is clear, but cannot be seen on the engineer's side of the engine on account of the curve. This light was not up at the time of the

accident. The pilot was on the look out for the light, and did not see that the track was obstructed until they were within about a car's length of the point of the accident, when he called to the engineer and then jumped off. There was very little damage done by the accident, excepting to the engineer of the Lake Shore switching engine, who was slightly injured. This engine was standing on the main track, apparently without any protection, and train No. 17 was exactly on time.

Yours respectfully,

THEODORE VOORHEES.

November 4, 1891, between Geneva and West X.—J. W. I. Stevenson, a passenger on Lehigh Valley train No. 102, was injured in a collision between the train and New York Central freight train No. 40. The conductor, engineer and operator were held responsible and were discharged. An examination of the map of the locality of Geneva West X, and a copy of rules governing the moving of trains at this point, by a member of the Board, presents the following facts: "The rules of the railroad company are that the conductor and engineer *must know* that the way is clear before passing this West X. It is the duty of the operator to stop all trains and *notify them* as to obstruction." The train men did not stop and know positively the condition and are in fault. The operator neglected his duty in not giving the proper information. The discipline of the railroad company in the matter is approved.

November 30, 1891.—At Suspension Bridge a car jumped the track and tipped over on its side. Conducted J. P. Main was injured. Inquiry elicited the fact that the accident was caused by the sharp flange of wheel taking the point of switch.

December 8, 1891—Patrick Quinn, while attempting to cross the track at One Hundred and Forty-ninth street, New York, was struck by engine No. 205 and fatally injured. Inquiry shows that crossing is protected, and that man deliberately walked on track in front of engine.

December 9, 1891—James Hilton, while crossing the track at De Witt, was struck and instantly killed by engine No. 182. The company, in reply to a letter of inquiry, said that Hilton was not killed on crossing, but was walking on track.

December 10, 1891—At East street crossing, Canandaigua, Martin Moore was struck and killed while driving over the track. Inquiry shows that the crossing is not protected, but view is unobstructed.

December 22, 1891—Passenger C. H. Bruel, of Brooklyn, was found dead in his berth of sleeping car, train No. 8. The Board wrote asking if any investigation had been made as to cause of death. In reply the company said that an investigation had not been made, inasmuch as it was understood that he died from natural causes.

December 27, 1891—R. C. Baird, J. Gitterington and L. H. Crary, were United States mail clerks, and injured by train No. 14 running into freight train at Buffalo, Rochester and Pittsburg railroad junction at Rochester, which was crossing the track. The engineer of train No. 14 was held responsible for running by signal which was set against him. He was suspended.

February 10, 1892—The Board wrote asking if view of signal was unobstructed, and for the circumstances of collision in greater detail. In reply the following facts were made known: "Freight was crossing from track No. 1 to track No. 4, and all signals were set in both direc-

tions to protect it, while so doing. The semaphore on track No. 1, on which train No. 14 was running, can be seen for a long distance. Engineer claims that he was unable to bring his train to a stop until he had collided with the freight train."

December 30, 1891—Edward M. Potter, while on top of car, was struck and injured by canal bridge, Syracuse. The ropes of bridge guard were tied together and did not hang down far enough. The ropes were promptly loosened, putting the guard in order.

January 1, 1892—While on top of caboose Thomas H. Smith was caught between caboose and coal chute, at Lyons. In reply to a letter from the Board the company says, the height of coal chutes, above the rail, are as follows: Over track No. 1, 15 feet 2½ inches; over track No. 2, 15 feet; over track No. 3, 14 feet 11½ inches; over track No. 4, 15 feet 1½ inches.

January 5, 1892—John Fitzgerald was working at Peekskill; he was applying brake on car, when chain broke and he fell to ground. The chain had been repaired with telegraph wire. The company says that the chain must have been repaired by some workman employed on train, without the knowledge of proper officials, as the fact of the chain being broken had not been reported.

February 29, 1892—At a point west of Macedon station, a stock train drawn by engine No. 536, was run into by light engine No. 530. The engineer of engine No. 530 neglected to look at indicators along the road for which he has been suspended. Two men in charge of stock were injured. Inquiry shows that engineer of engine No. 530 had no excuse to offer for his neglect, and he has been discharged absolutely from the company's employ.

March 12, 1892—A. Schmidt was injured while crossing the tracks at Tonawanda street crossing, Buffalo. Inquiry shows that accident occurred while flagman was off duty eating his lunch.

March 25, 1892—At Sumner street crossing, North Tonawanda, John Stevens was injured while crossing the track. The crossing was not protected at time of accident.

May 5, 1892—Engineer William Whipple, while leaning out of cab window at Palatine bridge was struck and killed by telegraph pole. The Board wrote for a copy of the coroner's verdict. The company was unable to send it, because they had never received a copy.

June 29, 1892—At Poughkeepsie the following passengers were injured: A. Lown, Mrs. O. D. M. Baker, W. H. Broas and Dr. John Foust; they were on train No. 56, which ran into side track. The switch lever controlling this track was in proper position, but it is thought the pin was not securely holed, and that the rails were accordingly forced open by engine wheels. The Board wrote and recommended that a careful examination of all switches be made every day.

NEW YORK, LAKE ERIE AND WESTERN.

October 21, 1891—An employe, standing on top of a box car, was struck by bridge at Main street, Middletown, and slightly injured. Inquiry elicited the fact that the bridge warning guards were in good condition at time of accident.

January 16, 1892—When train No. 137 was rounding a curve at Colliers the caboose and three cars were derailed, caused by track spreading. Conductor W. A. Kelleher and Brakeman F. Broadway

were injured. Inquiry shows that the company was of the opinion that the derailment was caused by a freight car riding heavy on its bearings, preventing the wheel of the truck from curving properly. The track was in perfect gauge, and well tied; also axles and wheels were in perfect condition. Further investigation shows that car was a New York, Lake Erie and Western refrigerator, No. 24, with a capacity of 50,000 pounds, and at time of derailment was loaded with canned goods, with only a total weight of 32,000 pounds.

May 24, 1892 — At 11.30 P. M., at West Tuxedo, train, extra, No. 274, east, ran by flag and block signal which was set against it, into rear end of third section No. 86, which had come to a standstill, in order to cool hot journals. One car loaded with lumber was thrown over on westward track, and ran into by train No. 79, engine No. 253, westbound, throwing same down an embankment. One employe was killed and two injured. The accident was caused by careless running of Engineer George E. Truax, of extra No. 274, east, and Conductor E. Wilcox of same train, who was riding on the engine at the same time, not taking prompt action to get his train under control. Both have been dismissed from the service of the company. Flagman Eli Laforge has been suspended for six weeks for not going back proper distance. The Board investigated as follows:

ALBANY, N. Y., June 17, 1892.

ALFRED WALTER, Esq., General Manager Erie Division, New York, Lake Erie and Western R. R.:

DEAR SIR.—In relation to the accident of May 24, 1892, at West Tuxedo, report as to which was this day filed here, the Board directs me to inquire,

First. How far inside the block signal was the rear end of third section, No. 86, when it came to a stop?

Second. How far could the flag and block signal, which was set against extra train No. 274, be seen by the trainmen of that train when approaching from the east?

Third. How much time, if any, elapsed after the rear collision in which to flag train No. 79, coming west, and what, if anything, was done to notify west-bound trains that track was obstructed by the collision of the two east-bound trains?

By the Board.

E. B. HASTINGS,

Assistant Secretary.

On June 25, 1892, the following reply was received:

Mr. E. B. HASTINGS, Assistant Secretary Board of Railroad Commissioners, Albany, N. Y.:

DEAR SIR.—Your favor of the seventeenth instant in reference to the accident at Tuxedo, received. In reply to the questions raised, would state:

First. The rear end of third section No. 86 was 2,181 feet inside the block or house signal, and 4,140 feet to distant signal when it came to a stop.

Second. The flag and block signal could be seen by the trainmen of extra No. 274, approaching from the west for a distance of 1,360 feet.

Third. No time elapsed after the rear collision occurred in which to flag train No. 79. The engine of train No. 79 had passed the engine of third section No. 86, when the rear collision occurred, and the instant that the lumber from the car in third section No. 86 was thrown over on the westward track by the force of the rear end collision, it was struck by train No. 79. As soon as this occurred, flag was at once sent back to protect the westward track. Trusting this will give you all the information you desire, I am

Yours truly,

ALFRED WALTER,
General Manager.

The Board desires to state that the above serious accident simply shows how necessary it is to have automatic air-brakes placed upon all freight trains as soon as possible.

NEW YORK, ONTARIO AND WESTERN.

November 17, 1891.—One killed, and one injured at the Wisner avenue crossing, Middletown, while attempting to drive across the track. Inquiry elicited the fact that the crossing was unprotected at the time of the accident, but in the future either gates or a flagman will be stationed there.

January 23, 1892.—James McAloon jumped at the time of the land slide, near Cornwall, and had his arm broken. Investigation shows that they had never had a slide at this point before, and further trouble of this kind is not looked for in the future.

March 3, 1892.—George Hawley, an employe, while on top of car, was (it is supposed), struck by a cross-beam of truss-bridge No. 171, just north of Hancock Junction. Inquiry shows that the bridge was not protected with warning-signals at the time of the accident.

ROME, WATERTOWN AND OGDENSBURG.

February 16, 1892.—While driving over the track at Felt's Mills Mr. Raubins was struck and injured. Inquiry shows that the crossing is not considered a dangerous one, and only eight trains pass in twenty-four hours; so, consequently, a flagman has never been stationed there.

March 20, 1892.—Train No 41 was derailed and thrown from track near Howelton, caused by the spreading of rails. Miss Emma Kelly, a passenger, was slightly injured. An investigation by the Board shows that a subsequent investigation by the company developed the fact that the derailment was caused by train having been run at too high a rate of speed and by snow and ice in the flange-way of the rail.

March 22, 1892.—When engine No. 105 was about two miles east of Sandford's Corners, Samuel L. Racine, who was employed as fireman, was injured by crown sheet of boiler falling in, throwing him over the back of tank. On April 11, 1892, the Board wrote, asking company to direct master mechanic to send a detailed report of accident, stating when boiler was last inspected. On April 18, 1892, General Superintendent Theodore Voorhees sent the following letter which he had received from Wm. Buchanan:

NEW YORK, April 16, 1892.

"MR. THEODORE VOORHEES, General Superintendent:

"DEAR SIR.—Your communication of the twelfth, relative to accident at Sandford's Corners on the R., W. & O., March twenty-second, to hand.

"Engine No. 105 left the shops October 14, 1891, after undergoing thorough repairs. Boiler was examined and the following repairs made:

"Tubes were all taken out, corners of fire box on bottom (where there was a slight leak) were caulked, stay bolts tested and found to be O. K. Boiler was then subjected to a hydrostatic test of 170 pounds cold water pressure, and found to be in first class condition. Mr. McGraw, foreman of boiler shop, made a personal examination of the fire box of engine after she had blown down her crown sheet on March twenty-second, and found that at the time of the explosion the water in the boiler was five inches below top of crown sheet, thus leaving the whole top surface of crown sheet exposed to fire without any water covering it, causing crown sheet, as it became heated, to expand the holes into which crown stay bolts were tapped and riveted until the bolts were

loose in sheet; also heating the ends of stay bolts until their resisting or holding power was very slight, allowing the crown sheet as it became heated to strip ends of crown bolts and sheet to collapse down into fire box twenty and one-half inches from its original position. As this crown sheet had 864 crown stay bolts one inch in diameter with ends enlarged to one and one-eighth inches, tapped into sheet and ends riveted over and stay bolts placed four and one-quarter inches center to center of bolts, it would, in my opinion, have been impossible to collapse crown sheet had it been covered with water with the steam pressure usually carried on these boilers, which is 150 pounds.

"All indications show that this explosion was caused by low water.

"Yours truly,

"WM. BUCHANAN."

March 28, 1892 — Miss Millie Greenland and Mrs. Charles Patchen, passengers on train No. 122, were somewhat injured in the collision which occurred at Pulaski. The Board wrote asking for circumstances in detail; why flagman was not further back, and how close behind freight train was train No. 122. In reply, the company states that the second train was following the first train in less than ten minutes, and the flagman should have been back a much greater distance than he really was. Conductor and flagman of head train and engineer of rear train were suspended.

SYRACUSE, BINGHAMTON AND NEW YORK.

November 17, 1891 — Benjamin Hopkins, while driving over the tracks at Marathon, was run over and injured by train No. 198. Inquiry elicited the fact that the crossing was not protected, it being seldom used.

WESTERN NEW YORK AND PENNSYLVANIA.

November 1, 1891 — J. W. Carlin, a passenger on train No. 105, was injured in a grade collision at Olean. Samuel G. De Coursey, president of the company, in reply to a communication from the Board, sent the following letter, relating to the accident, from Superintendent Bell. It is a copy of the letter he had sent to C. H. Allen, who, at the time of the accident, was president of the road:

BUFFALO, N. Y., December 5, 1891.

Mr. C. H. ALLEN, *President, New York:*

DEAR SIR. — In relation to the accident at Erie crossing, Olean, on November 1, 1891, I would say that the law with regard to crossings at that point was conformed to, there being an interlocking apparatus at the crossing which was erected by the N. Y., L. E. & W. R. R. Co. last winter.

The engineer of our train, 105, claims that the signal was thrown against him just as he was passing under it, and being of opinion that he could not stop before reaching the crossing, he put on steam and tried to cross in advance of the Erie freight, which was running very slow (said to have been barely moving). The engineer has been suspended for not doing everything possible to stop when he found the signal was against him.

Our trains are required to approach the crossing under full control, but are not required to stop if they find the signals in their favor. The Erie trains cross at full speed.

Respectfully,

(Signed)

R. BELL,

General Superintendent.

December 1, 1892.

Our trains now come to a full stop before crossing.

R. B.

WEST SHORE.

October 2, 1891 — Isaac Randall and son, while crossing the track near Fayetteville, was struck and killed by train No. 4. Inquiry developed the fact that the crossing was a private farm crossing, with the usual farm gates.

November 6, 1891 — At Montgomery street crossing, Buffalo, Frank Calewski was killed while crossing track. Inquiry elicited the fact that the crossing was unprotected.

LENGTH OF STEAM RAILROADS

IN OPERATION JUNE 30, 1892.

[Small capitals indicate lessee; indentations indicate leased or operated lines.]

Name of Company.	Miles in N. Y. State.
Addison and Pennsylvania.....	10.50.
Allegheny and Kinzua.....	11.00.
Attica and Freedom.....	33.00
Bath and Hammondsport.....	10.00
Boston and Albany.....	39.30.
Hudson and Chatham (owned).....	17.33
BRADFORD, ELDRED AND CUBA.....	4.31
Bradford, Richburgh and Cuba.....	3.62.
Wellsville, Bolivar and Eldred.....	20.62
Brooklyn, Bath and West End.....	6.64.
Brooklyn and Brighton Beach.....	7.50.
Brooklyn and Rockaway Beach.....	3.50
Buffalo Creek.....	5.82.
Buffalo Creek Transfer.....	1.10.
BUFFALO, ROCHESTER AND PITTSBURG (owned).....	166.18
East Buffalo Terminal Railway (owned).....	.10.
Lincoln Park and Charlotte (owned).....	10.89.
Perry.....	1.03
Carthage and Adirondack.....	43.00
CATSKILL MOUNTAIN.....	15.73.
Cairo.....	3.77
CENTRAL NEW ENGLAND AND WESTERN.....	53.04.
Hartford and Connecticut Western.....	42.50
CENTRAL VERMONT:	
Ogdensburg and Lake Champlain.....	118.00
Saratoga and St. Lawrence.....	8.50
St. Lawrence and Adirondack.....	10.50
CHATEAUGAY.....	18.01
Chateaugay Railway.....	38.89
Plattsburgh and Dannemora.....	15.92
Chataugua Lake.....	23.85.
CLOVE BRANCH.....	4.25
New York, Boston and Montreal.....	4.01
Connecting Terminal.....	1.00
COOPERSTOWN AND CHARLOTTE VALLEY.....	2.40.
Cooperstown and Susquehanna Valley.....	19.48
Crown Point Iron Company.....	12.84.
Danville and Mount Morris.....	12.34.

Name of Company.	Miles in N. Y. State.
DELAWARE AND HUDSON CANAL COMPANY:	
Adirondack	56.95
Albany and Susquehanna.....	142.59
Cherry Valley, Sharon and Albany.....	21.04
Lackawanna and Susquehanna (owned).....	17.65
New York and Canada and leased lines.....	149.94
Rensselaer and Saratoga and leased lines.....	155.15
Schenectady and Duaneburgh.....	13.79
Schenectady and Mechanicsville (owned)....	9.93
DELAWARE, LACKAWANNA AND WESTERN:	
Cayuga and Susquehanna.....	34.41
Greene.....	8.10
New York, Lackawanna and Western.....	207.79
Oswego and Syracuse	34.98
Syracuse and Baldwinsville.....	6.00
Syracuse, Binghamton and New York.....	81.00
Utica, Chenango and Susquehanna Valley.....	97.41
Valley	11.64
ELMIRA, CORTLAND AND NORTHERN	118.70
Canastota Northern.....	20.73
FALL BROOK:	
Corning, Cowanesque and Antrim	15.00
Penn Yan and New York	6.43
Syracuse, Geneva and Corning.....	57.75
FITCHBURG	114.99
Troy and Bennington	5.04
Fonda, Johnstown and Gloversville.....	26.17
GRAND TRUNK:	
United States and Canada.....	22.18
Grand View Beach (electric).....	7.50
Greenwich and Johnsonville	14.65
Herkimer, Newport and Poland.....	16.40
Island.....	.13
Kaaterskill	7.50
Kanona and Prattsburgh.....	11.44
Keeseville, Ausable Chasm and Lake Champlain.....	5.64
Kinderhook and Hudson	16.23
Lackawanna and Southwestern.....	18.00
Lake Champlain and Moriah.....	7.66
Lake Shore and Michigan Southern.....	71.00
Lebanon Springs	51.18
Lehigh and Hudson River	14.50
LONG ISLAND*	277.36
Brooklyn and Jamaica.....	9.58
New York, Brooklyn and Manhattan Beach	20.05
New York and Rockaway.....	9.01
Smithtown and Port Jefferson.....	18.98
Stewart.....	16.44
Marine33

* Of the leased lines making 74.06 miles, report for 1892, states that on but 68.92 miles thereof track is laid but does not show on what lines the deficiency and track laid exist.

LENGTH OF STEAM RAILROADS.

161

Name of Company.	Miles in N. Y. State.
Middleburgh and Schoharie.....	5.75
Mt. McGregor.....	10.50
Newburgh, Dutchess and Connecticut.....	58.84
NEW JERSEY AND NEW YORK.....	17.63
New Jersey and New York Extension.....	2.37
New York Central, Hudson River and Fort Orange.....	.60
NEW YORK CENTRAL AND HUDSON RIVER.....	819.45
Albany Branch.....	11.04
Athens Branch.....	6.16
Buffalo Creek Branch.....	1.29
Dunkirk, Allegany Valley & Pittsburg.....	42.30
Fuller's Branch.....	5.07
Port Morris.....	1.85
New York and Harlem.....	126.96
Rome, Watertown and Ogdensburg.....	412.55
Rockland Lake.....	1.15
Niagara Falls Branch.....	8.74
Carthage, Watertown and Sackett's Harbor.....	29.59
Oswego and Rome.....	28.49
Utica and Black River.....	149.81
New York and Mahopac.....	7.09
Troy and Greenbus.....	6.00
Spuytten Duyvil and Port Morris.....	6.04
West Shore.....	451.64
New York, Chicago and St. Louis.....	68.07
NEW YORK AND NORTHERN.....	57.16
Mahopac Falls.....	4.05
NEW YORK, LAKE ERIE AND WESTERN.....	504.44
Avon, Genesee and Mt. Morris.....	17.70
Buffalo, Bradford and Pittsburg.....	7.84
Buffalo, New York and Erie.....	140.25
Buffalo and South Western.....	66.36
Elmira and State Line.....	6.50
Goshen and De kertown.....	11.64
Lockport and Buffalo.....	15.12
Middletown and Crawford.....	10.22
Montgomery and Erie.....	10.43
New York, Pennsylvania and Ohio.....	49.24
Northern Railroad of New Jersey.....	5.82
Ramapo and Union.....	.80
Rochester and Genesee Valley.....	18.40
Suspension Bridge and Erie Junction.....	24.01
NEW YORK, NEW HAVEN AND HARTFORD.....	14.04
Harlem River and Port Chester.....	11.50
NEW YORK, ONTARIO AND WESTERN.....	318.77
Ontario, Carbondale and Scranton.....	2.91
Rome and Clinton.....	12.78
Utica, Clinton and Binghamton.....	31.30
Wharton Valley.....	6.80
New York and Massachusetts.....	34.99

Name of Company.	Miles in N. Y. State.
New York and New England.....	30.47
New York and Rockaway Beach.....	11.62
New York and Sea Beach	6.00
NEW YORK, SUSQUEHANNA AND WESTERN:	
Middletown, Unionville and Water Gap.....	13.90
Northern Adirondack.....	55.00
NORTHERN CENTRAL (of Pennsylvania):	
Elmira and Lake Ontario.....	99.61
Elmira and Williamsport.....	6.50
Orange County	10.70
Owasco River.....	.50
Pennsylvania, Poughkeepsie and Boston	3.78
PHILADELPHIA AND READING:	
Hayts Corners, Ovid and Willard	3.83
Lehigh Valley	135.21
Southern Central.....	115.03
Waverly and State Line.....	.40
Port Jervis, Monticello and New York.....	41.05
PROSPECT PARK AND CONEY ISLAND.....	6.23
New York and Coney Island.....	2.41
Prospect Park and Sea Beach.....	1.15
Rochester and Glen Haven	3.44
Rochester, Hornellsville and Lackawanna	27.92
Rochester and Lake Ontario.....	6.05
Schoharie Valley.....	4.38
Seneca Electric.....	4.00
Seneca Falls and Cayuga Lake.....	2.50
Silver Lake.....	6.86
Skaneateles.....	5.00
Southfield Branch	1.00
STATEN ISLAND RAPID TRANSIT.....	10.30
Staten Island	12.70
Sterling Mountain.....	7.60
Stony Clove and Catskill Mountain	14.30
ULSTER AND DELAWARE.....	77.61
Delaware and Otsego	8.79
Western New York and Pennsylvania	328.18
Wellsville, Coudersport and Pine Creek.....	10.12
Wallkill Valley	32.88

INSPECTIONS.

The reports of all the inspections made during the year ending June thirtieth are not presented in the current report. A change in the office of inspector was made by the Board on the first day of July of 1892, and the condensation of his notes into the usual reports was not made by the retiring officer. Such as are presented are the reports of the new officer.

BUFFALO, ROCHESTER AND PITTSBURG RAILROAD.

Charlotte branch.

From Lincoln park, near Rochester, about eleven miles to Charlotte, at Lake Ontario, and including connection with the old Rome, Watertown and Ogdensburg railroad, the alignment, road bed and track adjustment is the best. The structures are all in strong life, and in good condition. There are ten stone culverts, all in good condition. Cattle guards are slats and cross fences, and all well maintained, as are the signs at grade crossings; steel (seventy-one pound) rail is used and well spiked. On the eight miles of main track there are six curves, and the sharpest is five and a half degrees deflection angle. No passenger trains on this branch. Grass and weeds uncut, but to be cleared up in August. This branch is about three years old.

Main line.

Extends from Rochester to State line south of Ashford, and from Ashford junction to Buffalo creek junction. Seventy-five to eighty thousand ties have been placed on ninety-four miles out of Rochester, and about sixteen thousand yet to go in this season. There has been built since 1890 sixty-five miles of woven wire fence, Buckley & Howell No. 9 wire, posts twelve feet apart, six strands. East of Mumford station is scattered about 4,000 feet of seventy-one-pound rail for renewal.

Near Mumford is a new branch constructed last fall to a woolen mill, also a new switch connecting Lehigh Valley railroad. The switches are all of the point pattern, in good order and well maintained. From near Lime Rock station to Wyoming station and beyond is sixty-pound steel rail, then seven miles of seventy-one-pound rail, and following this for some distance is sixty-pound rail which is followed again by seventy-pound, for four miles. Considerable change is being made to heavier rail all along the line. Generally speaking the line, surface and track adjustment is very fair, but many places were noted where much work should be done. Considerable work is being done in permanent construction; large quantities of sleepers are scattered for renewal, and

much gravel ballasting is being put in. There has been great improvement since last inspection in repairs to fences, and if the work is continued for a short time longer, this item will be nearly complete. Ditches, as a whole, are very well maintained the entire length of road.

At time of inspection the grass, weeds and brush was not well cut, though some work has been done in this direction. Beginning the first of August all hands, it is claimed, will be put at this work and followed closely until completion. The Lincoln park station is to be remodeled and built west of highway, and all old buildings to be torn down and a new supply house erected. Mumford station has been newly painted, as has the Le Roy station, and not a few others. The station at Bliss was built new last fall and now presents a good appearance. Great Valley station has a new platform and is neat and clean, also Ashford Junction station. The stations as a rule are very well maintained on the whole road.

The cattle guards, cross fencing and danger signs are well maintained, with few exceptions. There are about six through Pratt pin bridges, of which some are in good life, but need painting to some extent. There are about 144 small structures ranging from three feet span to fifty feet over all, with wooden stringers; seventy trestles and pile bridges, one swing bridge (iron) only a few trapizordal trusses, and all in good order, about eight plate girders and rail girders, about five in number, several arches in connection with iron bridging. The swing bridge over slip of Erie canal, in Rochester, is about as reported previously.

There has been a great deal of work done in renewing small wooden structure, and a great deal more is necessary, for some of these are in quite bad repair. Considerable care is taken to keep water on trestle in case of fire, and some are constantly watched. Trestle bridge 25, about thirty-one bays long, galvanized iron covering for stringers, in fair good life, all pine, and five years old. If possible, this with quite a number like it, should be filled. Bridge 26 is composed of trestle approaches and deck girders on masonry with through arches, all in good form and fair condition. The trestle approaches should be filled. Bridge 29 — cattle pass should have new floor. Quite a few of the structures should have new guard timbers. Many of them are old and in poor life. Bridge 46 — piles should be cut down and bents of pine erected upon them. There were quite a few noted that should be treated in this same manner if allowed to be maintained. Near Eagle station is a high trestle over highway that is to be filled as soon as stone arch for highway is turned, which is now progressing toward completion. Near Edgemore station is a trestle about seventy-five feet long, and part of it has been renewed recently. Yet there are two bents that should be taken out as soon as possible. Not a little masonry needs attention on this road, and many places were noted where pointing and repairs are needed. Near Ellicottville is a new lattice girder seventy-four feet span, and next to it is a trestle (five bays, ten-foot centers) that has been renewed by bents placed on piles, cut off. Bridge 99 is an old Pratt pin, with Plœnix columns, sixty-foot span, and should be replaced by new modern bridge. Near West Seneca is a two-bay trestle in poor life that should be renewed, and at least one bay filled. The long trestle north of Rock Glen, reported in

bad condition in 1890, is still in existence. Some repairs are expected this summer. This structure is very bad and should be attended to at once. South of Rock Glen is a twenty-eight-bay trestle that needs considerable repairing.

NEW YORK CENTRAL AND HUDSON RIVER RAILROAD — HUDSON
RIVER DIVISION.

Albany to New York — Main Line.

This inspection was made from Albany, south, and the length is 143 miles from East Albany to New York city; double track, and laid with eighty pounds per yard steel rail mostly. About nineteen miles of 100 pound per yard steel has been laid at the southern end, and fifteen single track miles of eighty-pound steel since 1890. Some thirty miles of stone and gravel ballast have been placed since last inspection, and four miles of new wire fencing; also, twenty-eight small openings have been piped and filled, making a total length of 770 feet. Quite a number of stone arch culverts have been built new, twenty-five is reported, and sixty-one repaired. The cross-ties are in very strong life with few exceptions, and the tracks are in almost perfect alignment. The surface is kept very clean and in extra form. The sharpest curve is said to be six degrees and about 1,000 feet long; what is said under the heading Albany to Buffalo, with reference to curves, and scheduled speed of eighty-eight feet per second and more, is true as well here; though not having as sharp curves, still the pressure upon outer rails is proportionate. The rule reported to your inspector, is one-inch elevation for each degree of curvature for 60 miles per hour on this division. Great care is taken in keeping the fences in proper condition, and repair gangs were noted along the line. The adjustment of the tracks is certainly most excellent, and also the general surface. The passenger stations are, as a rule, in good clean, neat and permanent condition; considerable repairing has been done since 1890, and not a few improvements were noted. The Catskill station is being renovated, new roof and ceiling, and other minor repairs being in progress on day of inspection. Staatsburg station needs repairs to roof. A new station was in progress of construction at the time of inspection, in place of the old one at Garrisons. At Spuyten Duyvil, a new foot-bridge over the tracks, and outside, a covered platform was noted; also, at Morris Heights station. The Mott Haven depot building is to be moved back. There has been since 1890, considerable retaining and river wall construction, consisting of extra good material; most of this work is south of Peekskill. The block-signal system had been in use about a month, at the time of inspection, September sixth, from New York to Poughkeepsie. Between the latter place and Albany the work is being rapidly pushed toward completion. The ditches are kept open, and in good form with very few exceptions; there are sixty-seven public highway grade crossings; the cross fences, cattle-guards, and warning-signs generally are in very good condition. There are now some 1,900 yellow pine ties distributed for renewing; not a few places were noted along the line needing renewals, though generally in short spaces and between rail joints.

Bridge 341 should be overhauled as soon as possible, and materially strengthened; bridge 340 is deck-plate girder over water, and has poor

flooring, otherwise in good condition; bridge 334 is a cattle-pass and creek, has wooden stringers, but is soon to be renewed with deck-plate girders; bridge 323 is a small opening not in good permanent condition, and I would suggest it be covered with rail, and the masonry relaid; bridge 307, Howe truss, wooden, to be replaced in spring by iron structure; trains are said to be slowed down to twenty miles per hour in crossing; a new iron bridge should not be delayed at this point; bridge 303 consists of eight openings, about twenty-seven feet span, deck-plate girders; stone piers have been reinforced by pile butts on either side last spring; bridge 302 is two spans about thirty feet each, not in good condition, and should be attended to very shortly; bridge 296 is about twelve foot span, wooden girders, safe now, but to be replaced with I-beam girders; bridge 287 is now being renewed and strengthened. There are quite a number of small openings with wooden girders, and I would suggest no delay in placing deck-plate iron girders in their stead. A great amount of yellow pine flooring is being laid in standard form, and it is claimed by next inspection all old oak floors will have been renewed. Considerable repairs and relaying stone work should be accomplished on this division in the near future. The iron truss bridges are in good condition, and generally attended to with great care. Bridge 269 is a draw-bridge with deck-plate girders, and has not been used in a number of years; is about thirty-five foot span, and I would suggest that steps be taken looking toward the closing entirely of this opening as a draw. Bridge 248 was renewed last year entirely; fifteen foot opening and wooden girders. Bridge 246 is a twenty foot opening, wooden girders not in extra good condition now, and is to be replaced with iron girders this year, and should. Bridge 208 is deck-plate girders, and about twenty feet span; it should be closed up if possible; not used as an under crossing now. Bridge 196 has stone arch under No. 1 track, and has iron girder under No. 2 track. The arch is in good form and condition and should be extended under track 2 as soon as convenient. Bridge 182 is new and in excellent condition; consists of four bents fifteen-foot centres, all yellow pine. Bridge 178 is deck-plate girder, two spans of twenty feet; would suggest the abutment on north end be rebuilt very soon. The draw-bridge near New Hamburg is being overhauled and strengthened, both superstructure and masonry. Bridge 174 is about eight-foot span and has wooden girders; the south wall leans badly and has poor floor; should be attended to at once. Bridge 153, fifteen-foot opening, wooden girders, has poor abutment. There are quite a number of poor substructures that demand immediate attention. North of Croton there are some seven small openings piped and filled. South of Croton there are a number of new deck-plate girders in extra good condition. Bridges 89 and 88 have been renewed and generally overhauled since 1890. Bridge 72 about twenty-four foot span, through-plate girders, in excellent form and life. Bridge 14 on old main line consists of new through-plate girders in place of old Jack Knife draw-bridge. About 443 feet of low trestle now has new pine standard flooring. There are twenty-four rail-girder openings, and forty-four iron girders in very good life and condition, and great care is shown in maintaining them properly.

Albany to Buffalo — Main line — Mohawk and Western Division.

Two hundred and ninety-six miles of four-track road.

The west bound or No. 2 track is now composed entirely of eighty pounds per lineal yard steel rail. The fences are largely as before reported, in most excellent condition. The block signal system is being pushed to completion, the stations being from three to six miles apart, depending upon proper operating location, consisting of house on top of lattice open girders upheld by verticals of braced angle iron. These structures are light in metal but seem sufficient for their purpose. They span the four tracks at a proper elevation and the only criticism to be made is perhaps the great liability of the vertical angle iron bents being struck by derailed cars or extending beams, ties and the like on cars while passing, that may have become awry; the distance from the outer rail to the bents seldom exceeds five to six feet and the cars overhang the rails a foot or more. Since last inspection in 1890 a through fast train is being run between New York city and Buffalo and called the Empire State express. It was put on some time about November, 1891. Its time is considered fast, being scheduled at nearly a mile a minute, though seventy miles an hour and perhaps even more is made for short distances when necessary to make up for lost time; this speed necessitates considerable pressure against the outer rails, particularly on sharp curves, and when these rails have not been elevated properly to counteract centrifugal forces. This question of proper elevation is somewhat mooted, noticeably among railroad officials, yet it would seem too much care could not be taken to ensure absolute safety in this respect. Owing to the most excellent condition at present of both tracks (in every respect) the safe passage of curves is largely assured, and in the future also, assuming of course a continuance of these conditions. There are a number of sharp curves, noticeably the "big nose" west of Yost's station and near mile post 249, those in the rock cut at Little Falls, and others needless to mention at this time, which during passage at sixty miles per hour or even less, is the cause of considerable alarm among passengers who realize that a defective rail or joint connection might easily be the means of perhaps instantly whirling them into eternity. Some, at least, of the curves have not been "trued up" by instrument since having been originally laid out, and as a consequence are at the present time, owing to frequent and constant shifting by reason of ballasting, retieing and rerailing, in a somewhat changed position, particularly those compounded, which fact is not conducive to safety when great speed is to be maintained. Your inspector is informed that the air-brake is put on and every precaution taken for safety in the passage of all sharp curves. It is suggested, however, that all the curves be "trued up" and relined properly by instrument, and sufficient elevation be given to the outer rails on all curves proportionate to maximum speed, or that the speed be lessened at all sharp curves so as to insure ample safety, say forty-five miles per hour. The east-bound track, or No. 2, is not in as good condition as the west bound, with reference to life of ties. This fact was noted along the whole line, though new ties are being constantly placed, and in a short time it will no doubt equal No. 1. Large renewal of ties was noted in Nos. 3 and 4 tracks, and much

has been done in this respect since 1890; still much more is needed. Considerable attention is paid to the freight tracks as regards rail, joint fastenings, etc., yet they are not maintained in keeping with the great amount of heavy freight passing over them. Very large quantities of gravel ballast was noted on all four tracks as placed since 1890, and the general betterment in maintenance of way since that time was plainly visible along the entire line. Grass and weeds were noted as cut and cleaned up, and the roadway from fence to fence is kept in excellent condition. The cross fences at public highways were generally noted in extra neat condition, as were also all warning signs at grade crossings. The passenger stations remain about as previously reported, except the addition of an eating-room, about two hundred feet long, at the Rochester station. All of the stations have received their quota of regular repairs, and as a rule are most excellently maintained. Some of them, however, it would seem, demand renewing in modern design and conveniences, notably Little Falls and Utica. The former is very poor in accommodations, and an effort should be made to erect a more suitable structure. Utica may never have a new depot building properly arranged, although the city's growth would seem to demand it. The drainage of road bed is extra good, and great care is evinced in this respect. Considerable eighty-pound-per yard steel rail has been laid since last inspection; twenty miles has been laid on No. 2 track between Little Falls and Utica, and ten miles on No. 1. The bridge next west of Orange street, Albany, has recently been overhauled and strengthened. Bridge 364 over the western turnpike near mile post 294, has been laid with new standard yellow pine floor August last. Since 1890 about forty miles of track has been laid in the West Albany freight yard and arranged so as to hold fifty cars upon each "throw off." Near mile-post 285 was noted a five-foot opening under No. 2 track with wooden stringers both of which on north side of track were badly burned, and in a dangerous condition. The general road master who accompanied your inspector immediately gave orders to renew this structure at once. Bridge 382 over river west of Schenectady, is composed of deck-lattice girders and about nine spans, all in good condition, has new standard floor and ice breakers placed last winter. Bridge 400, ten-foot openings all new under every track since 1890. Bridge 406 is being repaired and placed in good order. Bridge 409 has three new iron girders, about twelve-foot opening and to be refloored next year; now in safe condition. Near mile-post 258 is a small opening with wooden girders on track No. 2; would suggest I beams be placed here. Bridge 413 is deck-plate girder, all good; new ones now being placed on tracks 3 and 4. Bridge 414, near mile-post 256, iron girders, new one on track No. 3 this year, all in good condition; the oak floor is to be renewed in yellow pine soon. Bridge 417, west of Fonda, deck-plate girders in good condition, rather old oak flooring, will renew with pine, two spans about thirty-six feet each, the guard timbers are poor. The masonry is in good sound condition, as is very generally the case on whole line, exceptions being noted. Bridge 449, between mile-posts 231 and 232, through-lattice girders, two spans, about sixty feet each, pine floor on tracks 1 and 2, and it was being repaired on day of inspection. The eight sixty-foot spans over West Canada creek of through-lattice trusses appeared all in good condition. No. 467, the next

bridge west of above, has new abutment and repairs completed last summer. Bridge 493, over Mohawk river, east of Utica, has new flooring and masonry somewhat new, since last inspection. The flood bridges immediately west of Utica have been new floored since last inspection, about seven in number. No. 519 is a two-opening bridge about ten feet each and I beam girders in fair condition now, but is to be filled. Bridge 524, two ten-foot openings has poor masonry and too old a flooring, but is said will be repaired soon. New standard flooring was noted on quite a number of structures east of Rome, in fact nearly every one between Rome and Utica. It is very satisfactory to note the improvements made since last inspection in the matter of flooring and general repairs on structures between Utica and De Witt, girders greatly strengthened was another feature between these points, particularly on east and west bound tracks Nos. 1 and 2. No. 581 is an opening about ten feet, wooden girders, not extra strong, but is to be immediately filled, and three cast-iron pipe lines utilized. The westerly abutment of bridge 617, overhangs, and is to be taken down and relaid this fall with heavier and better class of masonry. Bridge 619 is two-openings about fifty feet each over creek, near mile post 144. Deck-plate girders, too close to back walls west side, and the masonry needs repairs particularly on pier. At mile post 129 is bridge 627 over creek, and deck-plate girders, low in headroom, about twenty feet span, poor short oak floor on tracks 1 and 2. New girders were noted on freight tracks in excellent condition at this point. Bridge 638 is deck-plate girders, two openings about twelve feet each, masonry needs repairs, and floor is old oak and short; girder too close to back walls. At the 1,800 feet long bridge, Seneca river, new standard yellow pine flooring has been placed on tracks 1 and 2. Several piers were noted overhanging, and repairs, it was said, would be made soon. Not a few of the structures need cleaning on bridge seats. A large number of minor openings were seen to be covered with a solid flooring of T steel rails, also a large number were noted piped, and many were filled up entirely. This good work is to be continued, your inspector was informed. Most all of the structures over streets in the city of Rochester have been looked over, and refloored with yellow pine in standard form since 1890. The Genesee river bridge west of Rochester station is composed of a succession of deck-lattice girders on excellent heavy masonry. The masonry in piers and retaining walls at this point will soon need extensive rebuilding, and should not be delayed. The girders rest directly upon the stone masonry, tending thereby to crack and unseat the adjacent stone work in no small degree. Wooden wall plates it would seem should be inserted for the girders to rest upon, and give greater elasticity. The retaining wall on the curved portion was noted as overhanging somewhat. Some of the piers had iron rods tied back in walls to keep ends from moving. There are a great number of trains passing over this structure daily, and steps should be taken as soon as possible to place all of the stone work in absolute safe condition. Your inspector is informed that the railroad officials have in mind the work necessary at this point, and it is to be hoped the near future will see something done. Many of the small openings averaging say twelve feet, were noted, strengthened by doubling the girders since last inspection. At

Batavia, a new interlocking house and appurtenances was noted since 1890. There is but one pile bridge, as reported in 1890, at Fairport and last spring it was overhauled and repaired and renewed to no small extent, yet a structure of stone and iron should be placed here. There has been about thirty small openings piped since 1890, and very nearly the same number filled up entirely. There still remains quite a number of wooden girders at small openings, but they are being filled and piped very fast. There are about eighty of these small openings that should be piped, filled or covered to make them permanent.

Harlem Division.

This division is 126.96 miles long, and extends from Chatham to the Grand Central Depot, New York city. Largely composed of single track, though from Woodlawn to White Plains it is double track, and for a short distance between Mott Haven and Williams Bridge, four tracks are in operation very much like those in the city. Eighty-pound-per-yard steel rail is in use on the four tracks, and sixty-five-pound steel, taken from main lines much worn, but still serviceable, on the remainder. The fences along the entire line showed very careful attention. The cattle-guards and grade-crossing signs were found in place and in good life and order. Grass and weeds were cleaned up, and the general appearance along the right of way is clean and neat. Chestnut ties are used mostly on this division, though a good many yellow pine sleepers were found on the southern end. There has been since last inspection in 1890 a great many renewals, and generally speaking it is a well-tied road; still many more are needed. At all of the large structures "protection posts" to trusses were noted and all in good condition. New eighty-pound steel rail was noted near Dover Plains station, and it is said about ten more miles will soon be laid. Fifteen passenger trains each way daily does the business on the single track, and forty-five trains each way daily on the southern end. A new branch was noted about one-half mile long laid to ore beds near Amenia. There are no material changes as regards the passenger stations, and they are generally in fair condition when the ordinary repairs are made. Hartsdale, repairs needed on platform, also at Pleasantville. Pawling station roof leaks and rear platform needs some new plainking. South Dover needs painting badly. At Chatham passengers are landed at the new Boston and Albany Railroad station, a stone pile very artistic in design and with many conveniences. The old frame building formerly used by the N. Y. C. & H. R. R. R. Co. as a station, is now being utilized as a freight house. Assurances were given your inspector that these and many more needed repairs would be made in the near future upon stations and surroundings. The ditches are well defined, and, as a rule, kept free from weeds, stones and "sluffed" material. North of Mount Vernon two spans of lattice girders, new, has been raised during the summer of 1892; it is now in excellent condition. Your inspector was assured that all wooden Howe truss bridges would be replaced by iron or steel bridges this year. This is certainly good news, as the old structures have about outlived their usefulness, besides having been a source of constant expense and anxiety to the company. Their construction ("form") precludes accurately knowing their condition,

and the safest thing is to remove them. The two minor openings next south of Scarsdale, while safe now, should, it would seem, require I beams for girders if they are to be maintained. The 100 feet span post combination through trusses north of Scarsdale is one of the old bridges to be replaced by iron. South of Hartsdale is a twelve-foot opening that should be piped if possible. The masonry under most all of the larger bridges is in good condition as a rule. That under the minor ones would suggest looking over, pointing up, and attending to such minor repairs as open points, clinking, replacing end stone, etc. North of Kenisco Cemetery station is a twelve-foot opening that should be piped; the present structure is old and hardly safe. North of Sherman Park is a new iron deck-plate girder placed last spring with standard floor; is now on pile false work waiting a decision as to double tracks before abutments are constructed. Bridge 88, next north, is about twelve feet span, old box iron floor beams as girders. This bridge should be refloored very soon. Officials said it would be done immediately. Steel road rails laid alternately bottom to top and in some instances pyriform in cross section, was noted on some of the smaller openings, which if properly placed, makes a strong form of girder up to about eight feet in height. Considerable of this work has been done since 1890, and it is suggested all short wooden girders be replaced by these rail stringers. A number of small openings on this line should either be piped and filled in, or completely covered over by rails of steel, cut and laid alternately bottom to top, and graveled over for ties to rest on. Bridge 78 is an old Howe truss, shored up now, waiting for new steel plate girder to replace it with. Not a few of the bridges of medium span need new flooring. It is claimed the timber is on its way, or has been ordered for the most of these. The flooring on bridge 87 should have renewals made in places. Bridge 91, north of Brewsters station, about twelve feet opening, should have I beams and flooring renewed. Bridge 99, two spans of about twelve feet each, has new floor but needs repairs on stone pier in center. Bridge 100, over creek, three spans need repairs to masonry; next north is a ten-foot opening covered over solidly last spring and is in good condition. Bridge 107 is now a through-plate girder, steel covered, U shaped, flooring of iron, and filled with gravel, making a strong and safe structure, completed about eight months ago.

Bridge 109 is now a new deck-plate girder steel about six months old, and has new standard yellow pine floor, the old deck Howe truss has not as yet been taken down. Bridge 113 was two spans of deck Howe truss over Ten Mile river, is now two spans of deck plate girder steel, built last year, and is on blocking yet. Would suggest that it be finished and masonry pointed. Bridge 114 steel deck-plate girder, about three years old, 115 feet span, has a new standard pine floor since last inspection. Bridge 115 is about the same age, character and length as last mentioned; both are excellent in form and condition. Bridge 117 is now a new through-plate girder with covered V shaped iron floor solid, in place of old through Howe truss. Broken stone ballast for approach was noted. South of Amenia station is now about sixty feet of pile trestle in place of double arches. This trestle is temporary, and is not in extra condition. Would suggest through-plate girder be

placed here, and as soon as possible. North of last mentioned station is about forty-five feet of temporary pile trestle, at wash out. While safe now it should be closed up with new structure before another flood. South of Sharon station are a number of open cattle guards that should be filled or piped. Next north of bridge 140, which is about an eighty feet span deck lattice girder in good life, is a cattle pass, small, that should be filled. It is unused, and masonry is braced up by timbers. South of Philmont is a deck Howe truss not in good condition. Your inspector was assured of a new iron structure here within a month. Thirty-six miles of new sixty-five-pound steel rail has been laid in last two years. There are 107 public highway grade crossings. Some eleven miles of new wire fencing was noted. About 152,000 new ties have been placed in last two years. There are only two timber bent trestles with total length of eighty feet. Five miles of gravel ballast is reported as laid since 1890.

Mahopac Branch — Golden Bridge to Mahopac.

This branch is about seven miles long, and is composed of sixty-five-pound per lineal yard steel rail, mostly quite old, and taken from main line. It is still in a fair state of preservation, considering its great service. There is some old sixty pound Rome rail on this road, also much worn. It is principally a summer road, though some business is done in the winter. One engine does most of the business. Mahopac lake, at its terminus, is visited by not a few pleasure seekers. The fencing is fairly well maintained and consists of wire and boards. Stub switches are in vogue. The neglect shown in maintenance of way is perhaps largely due to small traffic. It is suggested that if this branch is to be continued in operation more attention should be given it. Cattle-guard slats were noted as needing repairs. Rail joints protected by two bolts only in some instances. Too many poor ties. The whole branch much in need of tie renewals. The gravel and cinder ballast is fair. Eight trains daily. There are fourteen openings spanned by wooden girders ranging from three feet to perhaps twelve feet in length and repairs are needed in most every instance if they are to be maintained. I beam girders should be inserted on the larger of these, and the smaller ones covered with steel rail laid bottom to top and then covered with ballast. A few have rail girders now, and are in fair condition. The Howe deck truss No. 158 over Croton river has been overhauled and considerable work done on it. One I-beam girder was noted in good life, but the flooring is poor and should be removed. Bridge 160 is over a creek, two openings about twelve feet each with wooden bent in center and masonry abutments, oak floor, and needs repairs. The Mahopac station, formerly at the junction with the New York City and Northern Railroad, has been moved and remodeled to a point about one-half mile further on, and new track laid, all since last inspection. Somers Center station is small (frame) neat and clean. There has been about 4,000 tie renewals since last inspection. The percentage of curvature is twenty-seven. The sharpest curve is eight degrees and about 675 feet long.

Mohawk Division — Schenectady to Green Island.

Twenty-one miles long and single track, and as a rule, the road-bed is in very good condition. Some three miles of gravel ballast has been placed since 1890, also, about 12,924 new yellow pine ties. The rail is sixty-five pound per yard and still serviceable, though some of it is considerably worn and cut down. Nearly 1,000 ties were noted scattered for renewals. Some very poor ties were seen, but not at rail joints, and not many. The fencing is in good, strong, condition, seven miles having been erected since 1890. There are fourteen public highway grade-crossings and all protected by usual safe guards. Considerable improvement was noted since last inspection all along the line. Quite a few small openings have been covered with solid flooring of T rails. Six cast iron pipe lines take the place of as many small openings, and some have been filled entirely. The passenger stations are, as before reported, in neat, clean condition. No changes of moment in any of them. The small openings spanned by wooden girders are very few in number and will soon be covered or filled. The truss bridges are all in evident strong condition, and considerable attention has been given them. Some new iron cattle-guard slats were in place. Not a little new flooring is needed on some of the smaller openings. Small repairs to substructures have been made to some extent, and some little more is needed. The ditches, generally, are in extra condition; grass, weeds and brush has been cut and cleaned up. Nine new T rail girders have taken the place of wooden stringers since 1890.

Western Division — Brighton Junction to Syracuse — (Old Road).

This road is in very good condition, and, comparatively, has few openings for total length. The fences are most excellently maintained, and road-bed with few unfavorable features. The rail is sixty-five, pound, taken from main line, aside from renewals. The ties are mostly oak, and, as a rule, in extra life, though quite a number were noted as poor, but not many together. The surface and alignment, considering age of rails, is most excellent. Point switches are in use and well cared for. The joint fastenings were noted as very good. There are about ten sets of iron cattle slats, the rest being wooden, and all maintained in good order, as are the cross-fences and warning signs at public highway grade crossings. There has been, since last inspection, about fifteen miles of new steel rail laid and about the same mileage of gravel ballast placed. Large renewal of cross-ties has been made since 1890. Most all the crossings (and there are a great number), have cast iron braces, generally two and three per rail length. Not a few of these were noted as broken and cracked. The ties are laid quite close together and are of ample size. The flowers and grass plots along this road at stations are very nicely kept and tends to enhance appearances greatly. It does not cost much to maintain them, and the idea would seem to deserve encouragement. About sixteen miles of new wire fencing has been constructed since 1890. The passenger stations are, as before reported, mostly kept in good repair, neat and clean. At Canandaigua a new office has been provided for the roadmaster. The only adverse criticisms noticeable in connection with this depot is a poor turn-stile that should be renewed and made of heavier material.

A little more paving in the depot yard would add greatly to public convenience. Most all of the station buildings have been painted, and many quite recently. Bridge 83, over canal, has new abutment on west side. Bridge 82 is I beam deck girder, all in good order, except repairs to masonry. Bridge 70 is about forty feet span over creek. Deck lattice-girders should have new flooring, and iron work is in need of paint. There are quite a number of small openings that are to be covered with a flooring of solid T-rails, and not a few to be filled and piped. Bridge 62, near mile-post 66, is I beam deck girder and all new since 1890. There are a great number of stone-arch culverts, and all generally in extra good condition. Bridge 54 is new, through-plate girders, with standard oak flooring and good masonry.

Bridge 53 is a cattle pass, with new I beam deck girders, good flooring and masonry since 1890. Both piers and east abutment have been overhauled and renewed under bridge 41, Seneca river. Bridge 39 over Cayuga lake outlet has forty bays of pile trestle to be filled shortly. The ten spans of trapezoidal through lattice bridges are in good condition. Following these is about 300 feet of pile trestle to be filled soon. New iron was noted on ground for draw-bridge, as soon as navigation closes. The substructure is now in good strong life and form. Bridge 31 has overhanging abutment; it is a strong opening with I beam girders. Material is on ground for repairs and should be completed as soon as possible. Between mile posts 24 and 25 is a bad rail; should be removed. Bridges 17, 18 and 19 have been overhauled recently and are now in good condition. Some repairs were noted as being needed on not a few stone culverts, especially on "parapet" and "wing walls." As a whole the superstructures are in very good life and condition.

Suspension Bridge to Rochester—(Falls Road).

The inspection began at Suspension Bridge. It is single track mostly, and sixty-five-pound per yard steel rail, of which not a little has been renewed since 1890. The renewals were noted to a considerable extent since last inspection, yet not a few places exist where renewals are needed greatly, but as a whole the ties are now in fairly strong life. The roadbed is kept clean and very neat from fence to fence, and considerable grading has been done recently. The fences are kept up in good condition as a rule, though some places were noted as needing attention. Point switches are used and the bedded timbers kept in strong life, with very few exceptions. As a rule the warning signs are in good order and plainly seen at public highway grade crossings. The ditches remain as before reported, in extra good, open condition, except near mile post 435. The ballast cannot be said to be poor, though many places were noted where much is needed. Considerable has been done in this respect, however, since 1890. The passenger stations as a rule have about the same appearance as previously reported. The regular minor repairs have been largely made, and with few exceptions are all well maintained. The small frame passenger station at Lockport Junction, being constructed at last inspection, is convenient, neat and clean, with outside sittings, and good platform. The Lockport station is comparatively new, and while having modern design and comforts, yet modifications seem necessary. Circulation of

air is necessary under the floors, and something should be done to protect the brick work from roof water. Medina station is in need of paint and inside repairs. Bridge 199 has new deck plate girders, good oak floor. The next small opening easterly is new, also since 1890. There are quite a few open cattle-guards that could be filled up entirely, and not a few in need of iron piping. An effort is being made to close up all, if possible, of these troublesome small openings. A number of openings, averaging about eleven feet wide, have wooden stringers, and while safe at present, I beams are much preferable and it is suggested an early effort be made in this direction. Near West Lockport and east of it is a deck truss bridge over canal, all looked over and strengthened since last inspection. Next is about sixty feet of trapezoidal trusses and deck-plate girder over highway, all reinforced and has good flooring.

Block signal system was noted as being in course of construction through Lockport. Not a little work since 1890 has been put on covered arch stone culverts, three having been built this year and others repaired. Bridge 183 is small opening with wooden girders, would suggest, if to be maintained, new I beams and flooring immediately. Near mile-post 413 is stone culvert in need of repairs on parapet and wings. Bridge 170 is two fifteen-foot openings, deck-plate girders reinforced lately over raceway. Bridge 168, under street crossing, low trapezoidal trusses, has been reinforced very recently by new iron floor beams, as is the case with bridge 166. New blocking pieces under end of trusses east side are needed. Bridge 165 is a series of deck lattice girders over 300 feet total length; this has been reinforced by extra trusses; would suggest new floor; now too old; very narrow abutment east end should be widened. Bridge 164 is under farm crossing; now has new deck-plate girders and good standard flooring. Masonry is very good. Bridge 163 is a brand new Medina stone arch over "under farm crossing." West of Eagle Harbor is an opening that should be piped. It is too wide now. Wooden girders on bents, and not in good condition. East of Albion is an under-highway crossing spanned by new deck-plate girders with new standard floor. Masonry also excellent. Bridge 137 should be filled as soon as possible; has old narrow abutments. The next two or three open cattle-guards are to be filled. Good work is being done in covering not a few small water passes with solid T rail laid bottom to top alternately. Bridge 128 is a cattle-pass, and should be overhauled and I beams inserted. Masonry now very poor. Bridge 127 is a new through-plate girder over highway with iron bents, as is true of bridge 126. Also, which, however, has wooden girders over sidewalk, all in good form and condition. Bridge 118, about forty-foot span, has new deck-plate girders under west-bound track. Tie plates about three-eighths of an inch thick are being placed under all new rails laid and to be laid.

Lockport Junction to North Tonawanda.

This is a single-track road, having old rail sixty-five pounds per yard taken from main line as before reported. Considerable betterment was noted since last report in many respects. The fences are "up" in good condition and great care is shown in their maintenance. The condition

and life of ties is most excellent as a rule. Some poor ones were noted that need renewal badly; though these are far apart and will be renewed shortly, at least it was assured by the officials. Quite a large number of ties were piled at intervals for renewal. The ballast consists largely of coarse gravel and some cinders. Some short spaces were noted as needing ballast to fill out on shoulders. The general road-way is very orderly and well maintained. The grass, weeds and brush cut and cleaned up nicely. The warning signs are in very fair condition and in plain view from highways. Rails for renewal were noted upon posts at regular intervals. The cattle slats and cross fences are in good order and well cared for. The ditching is very good with but very few exceptions. Only a few stub switches were noted, and these are to be replaced with "point" switches soon. The rail is much worn in places and "cut" to some extent, though still serviceable. The joint fastenings are very well attended to as a rule, still too much care cannot be taken in this respect. Between mile posts twenty-one and twenty-two are three open cattle-guards that should be filled entirely, covered with rails solid, or iron pipes inserted. They are low to be sure, but absolute safety is aimed at in these suggestions. Between mile posts nineteen and twenty is a twenty-foot opening with wooden girders, very short head room and not in extra condition. Safe now, but would suggest iron girders. Next, southerly, are two open cattle-guards that should be filled or piped. There are two separate openings between mile posts eighteen and nineteen, each about ten-feet span; one has T-rail girders besides wooden ones, and is in safe condition as is the other which has wooden girders, but, if possible, they should be covered and narrowed up. Bridge 131 is two fifteen-foot openings over creek, with deck-plate girder, short oak floor, about five feet head room, and all in good condition; masonry as well. Bridge 130 is a counterpart of last, and in same good condition as is bridge 129. Bridge 128 consists of two openings, one thirty-five feet and the other about twenty-five feet; the shorter now has new deck-plate girder, and the other is a Warren girder, somewhat shallow for span. Masonry should be overhauled, particularly the pier. Bridge 127 is an eight-foot opening with wooden girders in safe condition now, but should be closed and covered if possible. Hall's station is small and quite neatly kept, and is the only station.

North Tonawanda to Batavia.

This is a road not much used, though perhaps more recently than in years past. It is single track and about thirty-eight miles long. It is being improved from year to year, and lately has received considerable ballasting and new ties. The rail is composed of sixty-five-pound per yard from main line principally. Not a little new rail, however, has been placed since last inspection, and while much of it is old and worn, and somewhat "cut down," it is still serviceable for the amount of traffic carried on. The fences are kept up in very good condition along the entire line. A great amount of retieing has been done recently, and with occasional exceptions the ties are in very strong life as a rule. The roadway is cared for fairly well and grass, weeds and brush cleaned up on the whole road. Not a few switch timbers were noted as new, and shows good care intended in this respect.

Some fifteen pipe-lines have been placed since 1890, where was small openings. It is pleasureable to note these improvements, as well as the number of iron plate girders which have been put in recently. Ten small openings have been covered with rail, solid, since 1890. Bridge 125, at North Tonawanda, over the canal and street, is now through-plate girders, five spans, all new, and was putting on new standard pine flooring at time of inspection. Bridge 124 is through-plate girders, new pine flooring. Bridge 123 is about fifteen feet span, through-plate girders, with solid flooring. Next is a cattle guard that should be filled or covered. Bridge 121 is through plate girder, with solid U shaped floor, depressions filled with gravel. A through-plate girder bridge, solid floor, next to bridge 120, was noted, and is in excellent condition and new since 1890. There are quite a few small openings, having wooden girders, that should be covered or filled. East of Clarence Center station is a forty-foot span new deck plate girders, over highway. The floor is extra good, as is the masonry. Bridge 106 is now through-plate girders, in place of deck-lattice girders, has new pine floor and masonry since last inspection. Bridge 95 has new wooden girders and while safe, would suggest a T rail covering. Twelve miles of new sixty-five-pound per yard steel rail has been laid since 1890. The passenger stations are, as a rule, not changed or materially bettered since 1890; however, they are kept up in regular yearly repairs.

Canandaigua to Batavia.

Fifty miles of single track, consisting of sixty-five pounds per lineal yard steel rail in very good adjustment considering the age of it, and well lined and surfaced generally speaking, though a number of places for considerable distances were noted as needing a little attention. The ditches as a rule were found in very good order, as were the fences. The owners of adjacent land seem to take pride however in not keeping up their fences as well as the railroad company. The road bed is excellent generally on the whole line. Considerable gravel ballast, new since last inspection, was noted, and a great deal has been done in retieing, mostly oak. A few places were noted where the ballast is somewhat slack on shoulders. The ties on the line are quite close together, and large generally. It is a very well tied road, though a considerable number of poor old ones were noted, mostly between joints. Those at the joints were found in strong life generally on whole line. The traffic is small on the line. Two passenger trains each way daily and three freight trains make up the bulk of business. Spikes were noted loose at joints in some instances and angle plates cracked, but to no great extent. There are quite a few stub switches at station yards, though these are being replaced by point switches generally. A few rails were noted broken at ends. Suggest for safety renewals at these places. The passenger stations remain as before, all of them, except some painting and small repairs about platforms, floors and inside surface. They all average well in neatness and order. There are many open cattle-guards that have either been filled up entirely or have been piped and covered since 1890. Quite a number were noted as still open, and while all were found in safe condition, yet assurances were given that all would be

treated as above in the very near future. Bridge 10, between mile post 41 and 42, has wooden stringers. This should be I beams. Bridge 23, over river near Honeoye Falls, has two 100-foot spans through McCollum wooden truss, said to have been built in 1852. Has a new oak floor since 1890. Bridge 27, near mile post 30, fifteen feet opening, has wooden girders. Would suggest deck-plate girder iron as soon as may be. Bridge 29, near mile post 24, is a pile structure of twenty bays, all oak. Should be filled in all but about fifty feet, and iron girders on good stone masonry constructed. The floor at present needs renewal. Absence of water for fire protection was noted. Bridge 30 over river is a through Howe truss about 185 feet span. While putting on a new standard pine floor last summer the lower chord or northerly truss was found badly strained and pulled somewhat apart. Piles were immediately driven and the structure safely shoved up. A pier in center and two through plate girder spans will be made, or perhaps a through span of high iron trusses inserted. The latter, owing to the vicious nature of this stream in flood time, may be decided upon. It is suggested that immediate steps be taken to ensure permanency at this point. In addition to the pile shoving beneath round iron rods about an inch and a half in diameter tie the upper and lower chords together. Everything seems to have been done to ensure safety, temporarily at least. Between mile posts 23 and 24 is a pile flood bridge about five bays in extent in safe condition now. But the suggestion is made that it should be filled in all but about seventy feet, and a deck-plate girder used. The next bridge, No. 32, is a little longer but it would seem a like treatment would be advisable. Bridge No. 61 a fifteen-foot opening is to be filled entirely. It is safe now and in strong life but there is no necessity for its maintenance longer. There are twenty-six small openings ranging from two to ten feet in width, including quite a number of cattle-guards, that should be covered with rails solidly, piped or filled entirely, and it is satisfactory to note that this is being done gradually as noted above. This road presents great improvements since 1890. At Honeoye Falls station a new railroad is being connected, and the line extends to Lima, a distance of about nine miles. The Genesee Valley Falls station, on the Erie Railroad at the grade crossing with this branch, is not it would seem advantageously located, it being on the inside of the curve, and consequently hidden from view. Concerted effort would easily better the location and add greatly to general safety by moving the building about fifty feet to the opposite side.

De Witt to Geddes.

Eight miles and a quarter of double track for freight, wholly between DeWitt and the Oswego junction where the main line is reached again and followed. No change has been made since 1890 in rails, it being sixty-five pounds per linear yard, taken from main line. The ties were found generally in strong life, though some very poor ones were noted. Some ties for renewal, and gravel for ballast was noted along the line in places. Still much more is needed to ensure perfect maintenance. Not a little ballasting has been done since 1890 however. The grade crossing signs were noted as up and in good condition, though cattle-guard slats were missing in several instances. The grass

and weeds have been cut and cleaned up, and the surface generally is in good order. The alignment and track adjustment is fair considering the heavy traffic and age of rails. The minor openings are in need of considerable repairs. There has been, since last inspection, four new I beam girders laid under both tracks all in good order and ample. There still remain a few open cattle-guards, that it would seem should either be covered over solidly with rails, or filled in; they are now in no extra condition. The substructures generally are in good form and life but some little pointing would better their condition. The larger bridges on this branch appear in good condition, and aside from a few minor defects, the floors are in fair condition and amply strong. Some new floors also have been built since last inspection.

Buffalo to Lewiston via Suspension Bridge.

(Buffalo to Suspension Bridge.)

The inspection of this line began at Buffalo. About fifteen miles is the extent to the bridge. The roadbed generally speaking is in good order and neatly kept. A large number of tie renewals was noted, and considerable ballast, but much more is needed. Line and adjustment is very good, with few exceptions, these being mostly where old rail exists. The rail joints are as a rule well attended to, and the joints, bars and bolts are generally strong and secure. A few switch timbers were noted not in strong life, but as a rule they are very well renewed. Point switches are largely in use and in very good order. Grass, weeds and brush is very generally cut and cleaned up. The fencing is very well attended to and is repaired regularly. Some places the ballast was noticed as scant, near mile post No. 8, and at other points, but not for any great distances. The ties are close together and fairly large, and some were noted in very poor life and should be attended to, though not many were in this condition. The warning signs at grade crossings of public highways were generally noted as up and in good plain view and condition. Not a few open cattle-guards have been filled, and slats placed, the cross fences also, where seen were in good condition. The ditches are open and well kept generally. A new freight house has been built since 1890 at Ohio street, and is 300 feet long and somewhat in flat iron form, being about 160 feet on one end and the other less. Ferry station needs painting. At Black Rock is a new tank, and water closets since 1890. The roadmaster has new frame office at North Tonawanda opposite station, which is, as before reported except ordinary repairs. The stations are all in neat condition and very well maintained. Over slip three is a trapezoidal riveted truss bridge overhauled and repaired since 1890. Near by is a new round house and appurtenances. Next is quite a long piece of filling since 1890, where was a trestle perhaps 500 feet long. South of Ferry station are five bays, twelve feet centers, south bound track with I beams inside of wooden girders all on bents. Bridge 8 is low trapezoidal truss, about forty feet span covered with planking in fair life, and looks good. Bridge 11 is to be filled, now about thirty feet opening. Flagmen were noted at nearly all street crossings at grade. New sixty-five pound per yard steel rail in good condition, is laid from North Buffalo on both tracks to Tonawanda. Truss protection posts are in place at each end of

through truss bridges. Bridge 16 over canal has oak flooring, not in extra condition. Officials said a new standard pine floor would be laid shortly. Bridge 17 has new deck-plate girders, also been doubled in metal partly, and is soon to have new standard flooring, which should not be delayed. A little north of North Tonawanda station is an opening, small with wooden girders, would suggest I beams shortly if it is to be maintained; bridge 21 has two openings about ten feet each on north bound track, should either be arched as is the case under south bound, or narrowed and covered solidly; should be done very soon. There are quite a few of these small openings that could, with a little effort, be made permanent, and it is suggested that they be made permanent as soon as possible. There are quite a few of the open cattle guards remaining that could, with small effort, be filled or piped; the large truss bridges all appear in good condition; the substructures generally are in good sound condition, but some pointing and resetting of stone work was noted as necessary but not to any great extent.

Suspension Bridge to Lewiston.

This is a single-track road along the Niagara river. Its business consists largely in summer travel; observation cars are mostly used; the grades are quite steep; no speed of moment is made, and the road, generally speaking, is not in very good condition, though answering, perhaps, all the general requirements of safety; sixteen trains each way daily does the business satisfactorily, and four trains in winter. At the Lewiston end the track is, if anything, in most need of attention. The first structure has new masonry just completed, and is excellent in its construction and material, otherwise in very good shape. A retaining wall along the river side it is said, will be constructed this winter. Three watchmen patrol the tracks in places where the overhanging rocks give evidence of falling on to the track; the cross-ties are in very good life, except at intervals, and generally along intermediate rail lengths. Those at the joints are, as a rule, extra good. The ballast is composed of broken ledge stone and some gravel. The rail is very much worn and sixty-five pounds per yard; the joint fastenings are ample; the iron work was noted on the ground as was the piece timber for floor renewal of an opening which has wooden girders now, and is next south of an eighty foot opening with high deck trusses which are evidently in good form and life. There is a short stone arch tunnel next in good condition, though above arch near south end, filling is suggested for great safety; a space of about four feet now exists between arch and solid rock above; next is a ten-foot opening with new, extra good masonry abutments built last spring, and I beams with fair life of flooring, though short. The fencing generally is very good; some of the small one and a half foot openings need repairs; Lewiston station is neat and clean; stub switches are used to some extent.

Batavia to Attica.

This is a single-track road, with steel rail sixty-five pounds per yard. Some cut rails were noted, and many worn considerably; still the larger part is serviceable yet, and considering the few trains (four each way daily) the track is in fair condition for ordinary traffic.

The cross-ties generally are in very good strength of life, though some poor ones were noted, but few, comparatively speaking. The gravel ballast is fair and there is considerable of it, though places were noted indicative of thinness. Some places it was scantily placed, but as a whole, in fair condition. The fence have been repaired to some extent and regular attention paid them. The station at Alexander is neat and clean and has received its usual repairs. The ditches are fairly well attended to and present a good appearance. The grass, weeds and brush are cut and cleaned up. Considerable improvement is noticeable generally speaking on whole road since 1890. There are forty-two structures all together, the larger percentage of them being composed of T-rail girders placed together proportionate with opening. Not less than six openings are spanned by wooden girders, all safe now, but would suggest that they be replaced with iron. Some of them are to be piped and filled, and not a few of the rail-girder openings could, and should, be piped or covered over solid. The masonry generally is in good condition, though considerable pointing and minor repairs are needed. Bridge 76 is now through-plate girders and new standard flooring in excellent condition since 1890.

Geneva and Lyons.

About fourteen miles long, of which about six miles is double-track, all sixty-five-pound steel rail per yard. The adjustment of tracks is very good generally speaking. The line and surface is also good. There are twenty trains each way daily. The cross-ties while mostly in fair strength of life, considerable renewing should be done, and not a little has been done recently. The cattle slats, cross fences and warning signs were noted up as a rule, in good condition. The fencing is mostly wire and boards and kept up in very good form. There are only a few small stations and waiting places, but they are neat and clean. The joint fastenings are kept in good condition, as a rule, but some were noted in not extra shape. This road is well ballasted as a whole, and in places where more is needed the officials gave assurances to your inspector it would soon be placed. On the Y's, near Geneva Junction, are two pile trestle bridges that have been re-enforced by extra pile bents since 1890, and are now in good life. Bridge 4 is pile trestle of three bays, piles and caps newly placed since 1890; would suggest narrowing up and new deck-plate girders, also the same treatment with 5, 6, 7 and 9. These are cattle and under farm passes and do not require more than ten or twelve feet opening; they now have three and four openings each ten to twelve feet, center to center of caps. They are safe and in good condition now, however. Bridge 10 is in Lyons freight yard and in good condition. Considerable repairing has been done on all structures.

Charlotte Branch.

This is a busy branch during summer, there being forty trains daily, including four freight trains, and in winter it is narrowed down to four trains each way daily. It is about eight miles long and makes a loop around Charlotte Beach, which is quite a summer resort. The rail is

sixty-five pound per yard, taken from main line. The alignment and surface is very good. Braces were noted on curves and the track is very well adjusted for its age. The switches are made up of "stub" and "point," though not many of the former were noticed. Considerable work has been done in tie renewals, and many are scattered for use. They are close together where laid and generally in fairly strong life. The ballast is generally full and in good condition, and consists mostly of coarse gravel. Open, well-cared-for ditching is the rule on this branch, and fences are kept up fairly well for size of fence gang. Some new steel rail was noted on the ground in readiness for renewal. Iron piping is being utilized in not a few instances to close up small openings, and this good work is to be continued, your inspector was assured. Near Otis station is a small opening, about twelve feet, with I beams under one track and wooden girders under the other. Next north is another small opening that should be piped if possible. Near the junction with Falls road is a fifteen-foot opening on quite a skew; now has I beams and is to be piped very shortly. Most of the openings on this branch are small. There are nine public highway grade crossings and warning signs and cross-fences are in good condition. Thirteen trackmen, including foremen, are engaged along the line. The sharpest degree of curvature per 100 feet chords is five degrees, and the percentage of curvature is twelve per cent. Some 4,500 tie removals have been made since 1890, and about 1,200 were noted distributed.

Brewery Branch.

Freight traffic entirely, and about 3,000 feet long, extending from the main line near the west end of the Rochester station, down and along the bank of the Genesee river to the Bartholomay brewery. A trestle about 1,000 feet long, consisting of piles and bents, generally in fair condition now. Quite a number of sills were noted covered completely by soil. It is suggested that all sills should be cleaned off, if a heavy retaining wall is not to be constructed soon. Piles are all oak, and the girders or stringers. Caps and sills are all pine, in good strong life now. The flooring is oak, in good condition at present. The five bays of trestle near the main line is in fair condition, but the floor needs some renewing. Next the brewery is about 350 feet of trestle with fair oak floor, but the sills in many instances are covered as above noted in the longer one. Rock foundation is easily attainable along the river front, and it is suggested for permanency that the railroad and brewery companies combine and construct a suitable retaining wall and fill in these long trestles. Some exceedingly short curves were noted in the yard.

Buffalo Belt Line.

This road extends from main line near the William street station through the suburbs, northerly and westerly, and connects near Niagara river with the Suspension Bridge line, and is about eight miles long; is double-tracked and consists of sixty-five-pound rail. Considerable retieing was noted as necessary, also reballasting at intervals, though generally this line is in fair condition. Places were noted where ties were not a little sunken, and considerable tamping was necessary.

Some very poor ties were found in places, needing immediate renewal. The joint bars are made up of various kinds and bolts were noted missing, though to no great extent. Still, more care is suggested as regards rail joint fastenings. A fifty-foot opening, "trestle" on piles, has a stone culvert now, and is being filled. One open cattle-guard was noted, and, if possible, it should be piped or covered. The passenger stations are in neat, clean condition. A new one was noted near Black Rock, frame, and in good condition.

Upon the transmission of the above report, the New York Central and Hudson River Railroad Company filed with the Board, the following memoranda of improvements made and begun :

Bridge 246, abutments have been rebuilt, and solid floor been put in since inspection.

Bridge 196, abutments are to be extended and built up for new iron girders already contracted for.

Bridge 178, abutments will be rebuilt this season.

Bridge 174, abutments will be repaired, and rail-floor bridge put in early this season.

Bridge 153, bents are now in, and new stringers put on, but we expect to put in three lines of cast iron pipe, which are now ordered, and fill up the openings.

Bridge 341, we are now enlarging the opening, and putting in new abutments for new girder bridge, to be fifty-nine feet in the clear. Bridge is already contracted for.

Bridge 340, floor will be renewed early this spring.

Bridge 334 is to be taken up by our chief engineer, with regard to renewing the stringers.

Bridge 323, bents are now in to make the bridge secure, but will be overhauled this season.

Bridge 307, to be entirely rebuilt in the spring.

Bridge 303, abutments will be rebuilt this season.

Bridge 302, abutments will be rebuilt this season.

Bridge 296, solid rail-floor bridge will be put in this season.

Small openings mentioned are to be replaced with solid rail floor bridges this season.

NEW YORK, LAKE ERIE AND WESTERN RAILROAD SYSTEM.

The inspection of this system was begun Tuesday, July twentieth, and the main line and branches were examined carefully. The main lines are double-tracked from the State line between New Jersey and New York, to Buffalo, a distance of about 350 miles. Total mileage of this system in the State is about 900 miles.

Northern Division.

This division lies principally in the State of New Jersey; there being about six miles in New York State, from State line to Nyack. The rail upon the section from State line to Sparkill, consists of steel (sixty-eight-pound) on west-bound track, new since last inspection, and

(sixty-three-pound) old on east bound. The road-bed is well formed and properly maintained, with good ditching, and ties in excellent life, and in as close position as before. The passenger stations are, generally speaking, in good condition. At Nyack the roof has been repaired lately, and is to be painted shortly. The grass and weeds need cutting in some places, but this is being done as fast as the section gangs are at liberty from more important work; ties mostly white oak. North of Piermont-on-the-Hill, is an opening, twenty feet span, the iron work of which was new last fall. I beam girder-deck and good strong floor. North of South Nyack is a small opening, about four feet span; everything renewed about it last spring. The structures upon this division are, generally speaking, in good order and amply strong.

Piermont Branch.

This branch extends from the dock in the Hudson river at Piermont to Suffern, and is seventeen miles in extent. Sixty-three-pound steel rail in good line and adjustment generally, although some places were noted where work is needed in truing up. West of Sparkill is an eight-foot opening, stringers wood and in good life; the floor, however, needs renewing; next west is an opening, fifteen feet, plate iron girders, on masonry abutments, good pine floor; the traffic upon this branch is not much, being four trains each way daily, and two each way Sundays.

West of Blauveltville are eight bays of yellow pine trestle in good condition and strong life; this structure should have water stored upon it for use in case of fire. The fences are broken and down in some places and need repairs generally. The passenger stations are all in fairly good condition, though some need painting.

The tie renewals have been considerable recently, and mostly of oak, pine and chestnut, well laid and bedded quite closely, and generally in strong life. The ties upon this branch appear to be good, though renewals are needed in some places. The general appearance of the roadway is somewhat untidy, and considerable work can be done in clearing up. Some of the stations upon this branch are owned by private parties, and particularly the one next west of Spring Valley needs repairs.

West of Tallmans is a wooden trestle without water. This structure is otherwise in good condition, seventeen bents ten feet center to center. This branch could be placed in excellent condition with but a small outlay of money, and some of the cattle-guards could be filled up that now require constant attention and frequent renewals.

Main Line—Suffern to Newburgh Junction.

From Suffern to State line, a distance of about one mile or less, there are no structures. Seventy-four-pound rail well laid and in very good adjustment now on main line. Sloatsburg station (brick), in fair condition, needs painting; somewhat dingy inside. Tuxedo station, excellent depot and in extra condition; the absence of one door knob was noticed. Southfield station, somewhat old and dilapidated, very small; the passenger traffic is very light here; some repairs are needed. The station at Arden is in extra good condition, which is true

generally of most stations; grass plots and flowers look very nice and add greatly to appearances. Positive block signal system is in operation. All point switches in good order, as are all bedded timbers. Slag ballast is used largely on the main line for both tracks, and makes most excellent ballast where used in sufficient depth. Fences are not kept up well, the reason being given that private owners of adjacent lands who reserved the right to keep up fences fail to do so, and again the road follows the Ramapo river closely for some distance. West of Sloatsburg is one small opening with wooden stringers now, but iron girders have been ordered, and it is to be hoped they will soon be put in, as the present structure is badly in need of renewal. Immediately west is needed some new sleepers. West of Southfield is an opening about sixty feet span; trusses made up of Warren girder and Howe. Trusses put up last winter, all in good life, including floor and masonry. All of the structures on this line are in good, fair condition. Rail, ties, etc., scattered for two more tracks to Arden. Plate girders and I beams are used mostly on this line for small openings.

Newburgh Branch.

From Greycourt to Newburgh is properly the above named branch, and from Turner's Junction (sometimes called Newburgh Junction) to Vailsgate Junction is called the Newburgh short cut. These two branches form a letter "V" nearly, the first being about nineteen miles and the second thirteen miles long. Sixty three-pound rail from main line is used, and some of it badly worn. The structures upon these branches are as reported before mostly; masonry needs attention and pointing on some on them; small opening near Cornwall should, if possible, be filled in with iron pipe. Floor on iron trestle south of Newburgh needs repairs. A Pratt pin seventy-five-foot span near Newburgh station is to be reinforced by two new I beams for floor support. North of New Windsor station is a small opening, about to cover and insert iron pipe. Next, southerly, is a small opening; west-bound track is to be replaced by iron. The east-bound structure now has I beams and is in good condition. All of the bridges are good on west bound track from New Windsor to Vailsgate Junction. South of Vailsgate is a thirty-foot opening, under-highway crossing, and new iron is on the ground for renewal. North of Washingtonville is a Pratt-pin bridge, 120-foot span over Murderers' creek. It is to be replaced by a heavier bridge, and iron work is now on the ground.

Bridge No. 7, near Washingtonville, pine deck and approach should have water stored on floor in case of fire. Some poor ties at approach need renewing. Two small openings north of Craigsville are to be covered and iron pipe used. Some of the structures upon these branches need painting badly. The stations upon these branches are in good condition, generally speaking, except in some instances paint would go far to preserve the wood-work and enhance appearances. The line and surface on these branches, generally speaking, is fair. Track adjustment generally fair, but needs some attention. Fencing, generally, is good, but is being repaired in many places. The ditches, as a rule, are well taken care of. The grass and weeds are being cut and cleared up. As a whole, the branches are well taken care of.

Eastern Division.

From Newburgh Junction (or Turner's Junction) to Port Jervis, about fifty-six miles, laid with new steel rails, generally seventy-four-pound, well laid and adjusted. The line surface and general roadbed is in very good condition and shows careful attention. All rails are fastened with angle bars, six bolts per joint, and well attended to. The sleepers on this division are kept in strong life. Ties in poor life are very infrequent on this line. It would seem some thing should be done about keeping the fences upon this division in a better condition, either by private land owner or the company. An eighty-foot span plate-girder bridge near Turner's has been built new since last inspection, and is in excellent condition, as well as its masonry substructure. The masonry, generally, on this division is in good form and condition. West of Chester some small openings have been made permanent by closing up and using iron pipe thirty inches in diameter; west of Otisville are more small openings closed and filled in over iron pipe. Quite a number of openings, averaging eight and ten feet, have been refloored and otherwise strengthened during the last year. The bridge structures, generally, are in good condition. At Middletown will be built this year an interlocking tower; also, one about a mile above here. A third track is being laid out at Goshen, about two miles. This division now has stone ballast for twenty-six miles east of Port Jervis. It is pleasing to note the large quantities of broken stone ballast upon this line, and also the depth under cross-ties. Cattle-guard slats are broken, and out of place in some instances; grass and weeds are being out and cleared up. Near Middletown are quite a number of extra large ties, fourteen per rail-length. Passenger stations are generally in good condition, neat and tidy. The company rents from private parties some of the stations, and it is noticeable where this is the case repairs are needed much more than where the company owns. West of Middletown and near Howell's is five miles of broken stone ballast, placed last year under both tracks. The tie renewals on this division are being kept up satisfactorily. As previously reported, from State line to Sufferns is excellent stone ballast, and with what has been placed since 1890, leaves but little to do on the main line. The curves on this division are carefully attended to and very good in adjustment, both as to proper alignment of curvature and resistance of centrifugal force. The method of elevating the outer rail, and formula used, is very good. The outer rail is also braced amply upon all sharp curves.

Montgomery and Pine Island Branches.

From Pine Island to Goshen four trains each way daily do the business. Three hundred tons of sixty-three-pound rail have been placed upon these branches very recently. The Pennsylvania, Poughkeepsie & Boston Railroad, together with the Walkill Valley road, have trackage upon these branches. The traffic upon this line is light, and no speed of moment, which accounts, probably, for some neglect shown in line and surface and track adjustment. The fences are fairly kept up, and consist of wire and boards, with posts about twelve-foot centers. The low, wet lands, of which there is considerable on this line, is not fenced, and there hardly seems a necessity for it. The sleepers are

only in fair life mostly, though renewals were noted. Quite a few small openings. Wooden stringers were noted south of Goshen, averaging about four-foot-span, which, it would seem, could be filled, and iron pipe utilized. They were found in fair condition, but are a constant source of trouble and expense, and the sooner they are covered, the better. The over-head highway-crossing bridges were in good life and condition. Some of the small openings were noted that require new floors, and attention as to lagging. This branch is about twelve miles long, and runs on what was once a lake bottom, evidently for a considerable distance. Small bridge on piles has been renewed since 1890. The passenger stations are about as previously reported, generally ample, neat and tidy. About 500 ties renewed last year per mile.

From Goshen to Montgomery, single track, sixty-three-pound rail, taken from main line. The sleepers consist mostly of chestnut, and are, generally speaking, in fair, strong life. Constant renewals are being made, about 500 per mile per year. Grade-crossing signs are in place, properly located and painted. The switches on these branches are made up of point and stub, and the timbers are kept in strong life. There are no large openings of moment on these branches, and though there are a good many small ones, some attention is given to them. Grass and weeds are being cut and cleaned up, though some places were noted where grass covers roadbed.

Crawford Branch.

From Middletown, about four miles, the New York, Ontario and Western Railroad own and operate as far as Crawford Junction. There the Crawford branch extends to Pine Bush, about ten miles, single track, stub switches, very little traffic upon this line. Hardly enough to keep rust off the rails. Track is overgrown with grass and weeds to a considerable extent. Sixty-three-pound rails, taken from main line, which is the case generally upon this system. The only new work done upon this branch to speak of is fence repairs and some renewals to the same. The openings are confined almost entirely to small cattle and sheep passes. The ties upon this branch are generally in extra strong life. Most of the substructure masonry is composed of dry walls, and while made and laid in a good workmanlike manner yet for stability should be attended to. Bullville passenger station was built new last year, and now presents a neat appearance, and is amply large. Line and surface is fair, and track adjustment is good where recently attended to. The wooden timber docking for abutments is, when new, fairly safe, but should be replaced with stone masonry, and an attempt should be made to replace wooden stringers with I beams. Quite a few of the smallest structures have been renewed since 1890. Water is kept in pails in all the stations for fire protection, and this is generally true over the entire system.

Delaware Division.

Seventy-four-pound steel rail on whole division except half mile of eighty-four-pound. There is about thirty-five miles of double track, stone ballasted. There is about eighty-five miles in this State occupied by this division, and about fifteen miles in Pennsylvania. This division

is largely curved, owing to its following the Delaware river. It is pleasing to note the excellent line, surface and track adjustment particularly upon curves; about 15,000 tie renewals since 1890. Large quantities of sleepers were scattered and ready to be placed. There has been nine miles of new wire fence put up since 1890, a large number of small openings filled in last year, something like 100 of them, and iron pipe utilized. There has been about 200 since last inspection in 1890. The grass is cut upon this division, beginning first of August. The switches upon this line are all point, and in good order, as well as the timbers for same, and they are so located that accidents seem impossible, by reason of their being "tail on." Bridge No. 12 is an under-highway crossing, yellow pine floor, about fifteen feet span and in strong life. Considerable tie renewals being made here on east-bound track. Bridge No. 13 is over Callicoon river, four spans; new plate girders, very heavy and strong, on masonry piers, are being placed here. The style is "pine deck," and when finished will be extra safe. This division is in every way in most excellent condition except fences. The adjacent land owners, it is claimed, are largely to blame for this. But some course, it would seem, should be adopted whereby the fences might be kept in position and repairs. At a point upon this division where it is necessary to nearly go east to go west, are some bad slipping materials on side hills, and not a few small openings are maintained here and are of a necessity, owing to the great quantities of storm water from the abrupt hill sides. This is a bad and unsafe stretch, being hemmed in upon one side by the river, and the other by high abrupt hill slopes. Yet everything is watched carefully and constantly. Bridge No. 18 over east branch of the Delaware river, two spans 190 feet each, Pratt pin, very heavy and strong, double bracing on top of trusses and standard pine floor, with extra good masonry substructure, new this year. West of Hancock iron pipe is to be utilized in filling small openings that have no excuse for existence on a division so well maintained as this. Near the Ontario and Western railroad overcrossing is a through, Pratt-pin bridge of 100 feet span, built in 1883, and seems a little light for the present heavy traffic. Rails are kept on hand at every mile post in readiness for renewal. The heavy No. 6 stone crusher, at work on stone ballasting material, will be moved to this division probably next year; the eastern division will have then been completely ballasted. Bridge No. 22 is a through Pratt-pin bridge of two spans, about 112 feet each, no guard rails, but they will be placed soon; masonry is good, of modern design and well able to stand heavy traffic. The passenger stations are all well maintained, though some few need painting. Flower and grass lawns are seen quite frequently and they certainly assist in making pleasant the station surroundings. The drainage upon this division is most excellent and well maintained. All cattle guards are of the slat form and in good order; grade-crossing signs of danger are in place and well painted.

Susquehanna Division.

This division begins in the State of Pennsylvania near Susquehanna and extends from a point one and one-half miles east of Susquehanna to a point two and one-half miles east of Hornellsville. There is at present eleven and one-quarter miles of double track laid with sixty-

three-pound rail, one and one-half of seventy-four-pound rail through Binghamton, thirty-nine and three-fourths of eighty-pound rail with the exception of one mile on one track of sixty-three pound, which will be filled probably this year. Forty-five and three-quarter miles of double track, seventy-four pound rail, twenty-nine miles of double track, eighty-pound. The tie renewals this year will be about 110,000. Including the State of Pennsylvania, there is 140 miles of this division, or about 130 miles in New York. East of Kirwood is an opening forty foot span plate girder, over creek; good oak floor. The girder under east-bound track is very old, perhaps twenty years, and the one under west-bound track about three years old, masonry very good. There is about thirty per cent curvature upon this division. Bridge 13 is forty-five foot span. "Plate girder through;" floor should be renewed; now consists of oak. This structure is over a creek, with about five feet head room. Switches all "tail on," except in yards on division. Some of the small openings need new flooring badly. Since last inspection there has been placed 40,000 pair of new pattern angle plates at rail joints. Bridge No. 16, about fifty-five foot span, plate girder, oak floor and oak guard timbers in fair life; it is over a very rapid creek. Protection should be given foundation timbers under abutments either by stone filling or maintaining dam on down-stream side to make still water over timber and protect from washing. A fifty-foot under high-way crossing bridge, plate girder floor on top of beams, all new back walls yet to be constructed; material on ground; good strong structure. Through plate girder near Binghamton station over Court street, about fifty feet in clear, all new. Bridge No. 21 is about 1,100 feet long, twelve spans, consisting of modern style trusses, pine deck and Warren, girders, all in good life; Chenango river, no guard rails and no water in barrels, masonry in good condition. Considerable floor renewals have been made since last inspection upon small bridges. Bridge No. 43A is thirty-three foot span, under crossing of main line of the Lehigh Valley Railroad; new last month, masonry and all. Quite a few small openings closed by inserting iron pipe, near Chemung station since 1890. This division is fortunate in having a large percentage of iron trussing and plate girders and many changes from wooden stringers to I beams and plate girders in small structures were noted. The line and surface of tracks and roadbed show great care and attention. Track adjustment is very good and shows much care. The curves are extra well adjusted and the elevation of the outer rails agree almost perfectly with speed of trains. Fences are fairly well maintained, though many places were noted where repairs are needed, except through cultivated lands. Drainage of roadbed and adjacent land is good. Tile pipe, open joints, is largely used, and found to answer admirably. Section gangs are mostly full in number, and were seen regularly attending to roadbed, tracks, ties, etc. Grass and weeds partly cut, but to place all hands on this work beginning first of August.

Passenger stations generally are kept up, neat, tidy and well painted; flowers and well cared for lawns at many stations. Cattle-guard slats and fences are whitewashed nicely and kept up. Highway grade crossing signs are in place generally. Smithboro station is a temporary structure, the old one having burned two years ago. New

modern station to be built next year. Considerable painting has been done on iron bridge and quite a little more is needed. There has been considerable ballasting done on this division recently, large quantities of furnace slag being used.

Tioga Division.

This division is largely, in fact most entirely, in the State of Pennsylvania, there being only about four and one-half miles in this State, extending from junction of Northern Central, about two miles east of Elmira, to State line. It is a single track, maintained with steel rails taken from main line. Nearly one-half of this line has been retied since last inspection in 1890, and the rest are in fair life except in short spaces. There is forty per cent of curvature on the whole line. Occasionally a tie is found in very poor life, but not many together. Oak ties on curves and chestnut and hemlock on "tangents." The line and surface is very fair and the track adjustment also good, generally speaking, but some care and attention is still needed in this regard, particularly at ends of curves. Grass and weeds are being cut and cleared up.

The sharpest curve is eight degrees and about 400 feet long, which is too sharp for much speed, though the elevation of outer rails is ample, generally, on the whole line and considerable bracing done.

Fences are most board and posts and well kept up, except in short spaces. The bridge structures are largely wooden and in fair life only, and some of the pile bridges should be renewed by cutting down piles and placing bents on them. Bridge No. 1, built in 1886 on oak piles about 310 feet total length, guard rail and timber oak floor, two stone piers, all in fair life only; five trains each way daily; a double cattle pass was noted near bridge No. 3 that had been repaired this year, about ten-foot centers and two bays, oak floor and timber abutments. Bridge No. 6 on piles, oak stringers of wood, in fair life, but all need looking after, quite a few of the small openings should be filled and some of the pile bridges could be filled for some distance at least from ends. The Seeley creek station is small, very neat and clean; needs paint and new door-sill.

Buffalo Division.

Extends on main double-tracked line from Hornellsville to Michigan street, Buffalo, about ninety-one miles. The branch from Tonawanda to Lockport is about fourteen miles single track. The Falls branch, twenty-four miles from Buffalo to Suspension Bridge, and the International Bridge branch, six miles, making a total of 135 miles.

Hornellsville to Michigan Street, Buffalo.

Except what is called the gauntlet over Portage bridge (one track) the rest is all double eighty-pound steel rail as far as Dale, and seventy-four-pound rail to Attica. There are about twenty openings with I beam stringers. About eight with wooden girders or stringers, ten with plate iron girders, three of lattice girders, ten with rail girders and a few truss bridges on this line. The Portage bridge or viaduct is in strong life of paint and is carefully attended to; a slow rate of speed is only allowed upon it. Bridge No. 6½ needs paint as do a number on

this division. Bridge No. 21, deck-plate girders, two spans fifty-nine foot and sixty-five foot over Tonawanda creek, yellow pine floor being laid. This is a brand new bridge, pine in floor, looks as if "tap ed;" elevation blocks "gained" in on under side of floor timbers; next to this is a small opening with new flooring just finished. Bridge No. 21½ is under highway crossing; deck-plate girders need paint, otherwise in strong life. Some of the small openings were noted that need new floors. Near Darien is a small opening to be rebuilt immediately. Bridge No. 22 fifteen-foot span, iron girders, to have new floor; the roadbed is in fair condition as are the line, surface and track adjustment, generally speaking; cattle-guard slats were noted broken and in poor repair in some instances; ties were found in fair life, and considerable work in renewals going on; extra rails were noted at mile posts for renewals and case of accident; angle-bar fastenings are used at rail joints, and nut locks are being experimented with; attention is suggested to better alignment and track adjustment in some places; gravel is used mostly for ballast, and considerable is being done in good workman like manner.

The fencing is only fairly kept up; places were noted where fences are broken and down, though constant attention is claimed; the grass and weeds are being mowed and cleared up; the curvature is not great, six degrees being the sharpest, and for about 710 feet long; the ties are mostly oak and eight feet and a half long, and average sixteen per rail; ditches are generally kept in open condition, though some places incuts were noticed where some little work is needed. The passenger stations are in general good condition; Arkport station has a new slate roof and needs painting outside; Garwood station also has a new slate roof; in fact, since last inspection, 1890, considerable work has been done on the stations, and flowers, plants and lawns are seen frequently, which greatly improve appearances.

Bailey Avenue, Buffalo, to Suspension Bridge.

There is about 18.36 miles of single track, and is double-tracked to Falls Junction. The trestle near Walden avenue, Buffalo, has been filled since 1890, 300 feet long. The first State ditch north of Burlington is covered by pile bents and is eleven years old, pine floor new and wooden lagging. It is suggested that masonry abutments and through-plate girders be placed here. There are quite a few pile and trestle bridges, and all appear in fair life, though if possible, something should be done toward filling them where practicable. It is satisfactory to note the large amount of filling that has been done since 1890, and hopes are had that some more will be done this year. The structure over the Erie canal and Tonawanda creek is in good life, and considerable filling is being done on trestle and approaches. At Goundry street, Tonawanda, is a new bridge over sidewalk since last inspection; the masonry is good, and excellent pine floor, all in good and safe condition; one small opening near La Salle station since 1890. The pin trusses are all in excellent strong life. There is considerable stone ballast on this branch in good form and depth and the sleepers are generally in strong life, though quite a few old ties badly used up were noted. There are

twenty-two trains each way on this branch daily. The line and surface general is fair, and in many places extra good. Surface water is well taken care of and the track adjustment is very good. The Niagara Falls station platform was burned down since 1890, also bridge, and has been rebuilt. The old Niagara station is now used as a freight house. This end of the road is in excellent condition and all structures are well attended to. The danger signs at highway grade crossings are up and generally well in repair. Point switches are in use except sidings and yards, where some stubs are found; the switch timbers are generally in strong life. Grass and weeds are being cut and cleared up.

Tonawanda to Lockport.

From Tonawanda to Lockport is a single track, fourteen miles long, of which twelve miles is one straight line. There are four passenger trains and one way freight each way daily. The rail is all steel, and consists of sixty-three-pound per linear yard and is taken from main line. Ties are strong in life generally, and considerable work is being done in renewals. The ballast is mostly cinders, and the line surface and track adjustment are all very fair. There has been eight cattle-guards filled in since 1890. Stone for ballasting is obtained on the main line, and company owns the quarry, and considerable work will be done in this respect. Point switches are in use and kept in good safe working order. Cedar ties are used most entirely. Angle-bar fastenings are used, and joints of rails are generally in first class order. This road crosses the Tonawanda swamp and most of the openings span the State ditches, excavated and maintained for drainage purposes. Nearly all the abutments of small structures are composed of "bulkheads" made out of 8x14 oak, laid flat and drift bolted, most all four years old. Iron pipes, it would seem, could be utilized in some of these places. Lockport station has been connected with the town sewer and now has excellent drainage. This has been done since, also a new slate roof. Painting is much needed to the stations on this branch. There is a ten bay trestle over Sawyer creek in good life. Twenty-four feet has been filled on each end of this structure. The pile bridge near Hoffman station should be looked over and repaired. Grass and weeds have been mowed. Fences are in only fair condition.

Rochester Division.—Painted Post to Rochester.

About ninety-two miles long. Mostly old rails, sixty-three-pound, from main line, somewhat worn, but still serviceable. The general line and surface is fairly good. Some repair—more than ordinary is needed along this division, though as a whole, the roadbed and appurtenances seem to be given considerable care. Scottsville passenger station has been remodeled since 1890; platform has been renewed and lowered. West Henrietta station needs painting, otherwise in fair condition. Conesus passenger station was burned down May thirtieth last, and a temporary station has been erected roughly until new building is completed. A number of the stations are not owned by the company, and repairs are needed to some extent on some of them. Springwater station is somewhat dingy inside, and the steps should be lowered; needs painting outside. A feature on this line is the beautiful flowers and lawns at

stations. Havana station, complained of in last report, has been remodeled this year, and is now in good, neat permanent condition. Savona station needs painting inside and out. Curtis station is owned by private party, and needs considerable repairs, painting and a general overhauling. The bridge structures are generally in pretty fair condition, and considerable has been done in the way of new floors, reinforcing stringers, etc. They all appear safe, though permanency is lacking in a number of instances. There are about fifteen rolled I beam structures. Twenty-nine openings, averaging about ten feet, which have wooden stringers or girders. About twelve "Howe trusses," which should, if possible, be replaced by iron girders, at least a majority of them. The masonry is generally in fair condition, though there are quite a few instances where somewhat extensive repairs are needed to make positively permanent. North of Avon is an opening over creek, deep ravine, where if masonry foundation is good, there should be an arch of stone turned clear; span is ten feet; abutments extend back about twenty feet. Bridge 28, "through Pratt pin," built in 1882, needs painting. Quite a number of I beamed girders need painting badly. Near South Lima is an under-highway trestle, four bays, should be attended to at once. South of Atlanta is a small opening, wooden girders seven years old (except masonry, which is poor and should be rebuilt or extensively repaired), in fair good life. Bridge 17 is a new plate girder through, about sixty-foot span and in good strong condition. The barrels of water which have been taken off the "Howe truss" bridges should be replaced and kept full, as they are needed badly in case of fire. South of Kanona is a small opening, fifteen-foot span timber girders, trussed; plate girders would be much safer here, and is suggested. The eight-foot opening south of Bath station should have rolled beams instead of timber. North of Campbell station are two new bays of trestle, new last winter. Bridge 5 is new this spring, through-plate girders, three of them, eighty feet each, very strong and well constructed. Bridge 3, two spans, has a watchman; one of the spans was built in 1879, should be renewed; "Howe trusses;" this bridge is as last reported, and it does seem that positive safety demands a new iron structure. The fences generally are in fair life and condition, yet constant repairs and watchfulness is needed. There has been since last year 55,000 tie renewals, and up to July first, this year, 38,000. The ballast is not more than fair, and in many places broken stone would go far to help to make a better wearing surface. Attention is suggested to repairs on cattle-guard slats; many of them are broken and not kept whitewashed. The rail joints are suspended on this line largely, and angle-bar fastenings are used. Grass and weeds are being cut and cleaned up, though the whole force is not actively engaged as yet. Ditching is fairly attended to. A great number of ties scattered for renewals were noted.

Conesus Lake Branch.

A single-track, one and a half miles long, from main road to Conesus Lake, sixty-three-pound rail from main line, much worn and poorly laid and adjusted, line is poor and surface no better. It is only used a few months each year for pleasure passenger traffic. Point switches are used; no speed is attained, and while the traffic perhaps does not warrant

a first-class maintenance, yet considerable should be done in "truing up" and ballasting; there is some little cinder ballast now, but not of any account. The track extends out into the lake about six hundred feet, and is laid on a loose stone bed where change is made to a steam-boat from train. One engine, passenger and freight car virtually does all the business. Grass was not cut, ties made up of "seconds." There is some ice freightage on this road. There are no openings.

Attica to Avon.

The thirty-five miles of this branch is laid with steel rails, is single track, in good alignment and roadbed generally in fair condition; gravel and stone ballast for nearly three-fourths the distance is in good form and depth; the fences are kept up in good shape and life as a whole; yet there are places where it is broken, and spaces where there are no fences at all. The latter occurs mostly when near a river or across wet land not cultivated. Angle plates are used entirely. Mostly all oak ties are used, and generally in good strong life. There are some places, however, where ties are very poor and renewals should be made without any delay. Point switches are used almost entirely, if not entirely and timbers for same are in good life; sleepers range from fifteen to sixteen per rail length. The traffic is composed of six trains each way daily. The grass and brush while it is not all cut and cleaned up, is being worked at some, with promise that all hands are to be placed on this work on August first. Some cattle-guard slats were noted as missing. There is considerable snow fences along the line and all well kept up. The ditches are very well opened. Sixty-three-pound rail is used, as on all other branches. The danger signals at grade crossings are up in place and well maintained as a whole. There are about twenty-seven small openings with timber girders between Attica and Batavia, and about ten between Batavia and Avon. These structures while kept in good life as a general rule, yet quite a few of them are in urgent need of repairs and renewals. Not a few of these openings could be made permanent by using stone arches, stone boxes or iron pipes. The trestle bridge near Attica two bays ten feet centers is in poor life and should be attended to at once. Quite a number of floors upon these small structures are in need of renewal as soon as possible. Between Alexander and Batavia are four bays of pile bridging; could be narrowed to about ten-foot clear span. The D. L. & W. R. R. overhead trapezoidal lattice-truss bridge is next to above mentioned pile bridge, and is in good apparent life and form. A number of rolled-beam girders were noted in strong life and strength of metal. West of Batavia is a five-bay pile bridge, foundation piles very old, and should be either cut down and pine bents erected upon them, or better still, stone masonry abutments and piers and plate-girders. The second east is a new eight-bay pile bridge. East of Le Roy is an opening about ten feet wide that was reported in 1890 as needing repairs. It is in same condition still, as are a number of the minor structures. East of Caledonia is a cattle-pass with leaning masonry abutments and timber reinforcement; should be taken down and rebuilt. Some of the iron bridging needs painting badly. Bridge 2 is a through trapezoidal lattice-truss; appears in good form and condition, but is light. West of bridge No. 1 is a seven-bay trestle bridge that is old and needs repairing not a little. The plate-

girder and truss-bridges generally are in good form and condition. Near Avon is a new plate-girder through over highway, thirty-eight-foot span and good pine floor. The passenger stations are in good condition generally. Some need painting, and a chimney is needing repairs at Stafford.

Avon to Mount Morris.

Fifteen miles of single track to Mount Morris, and about two miles is operated beyond Mount Morris, but no passengers. Sixty-three-pound steel rails taken from main line and some iron rails. This branch is only in fair condition as regards line surface, track adjustments, life of ties, and general maintenance. Some improvements have been made since 1890, the date of last inspection. However, there is not much traffic, and speed of trains is not fast. The sharpest curve is seven degrees, and for about 400 feet in length. Bridge 1 is composed of five arches, semi-circular; stone work old, and needs repairs. The filling of earth has been taken but a few feet in depth and ties are laid on oak stringers 14x16 on account of frost heaving masonry. The inspection is from Mount Morris to Avon. Number of bridges in continuity from Avon. Bridge 3 is over highway built eleven years ago; girders are of wood, trussed with iron rods. It has a new floor, and is about twenty-eight feet span on masonry abutments in good condition. Bridge 8 is about seventeen years old. As regards piles, which are oak, it has been reinforced by oak bents, and is about 126 feet long, and should be renewed and made permanent as soon as possible. The Delaware, Lackawana and Western Railroad Company grade crossing remains as reported in 1890. Bridge 5 is an old cattle pass, now in disuse; should be filled up as soon as possible. It is about twelve feet in width. Bridge No. 6 is over creek, and wooden girders are trussed with iron rods. Suggested that iron girders be placed here. It is about twenty feet span. Bridge No. 7 is road No. 2, and is a Howe truss, through about 150 feet span over the Canaseraga creek. Was reported in 1890 as in poor condition. Some repairs have been made, but a new bridge would be much safer, and it is suggested. Considerable repairs are needed to make safe most of the structures. The passenger stations are in good, fair condition and flowers and lawns are seen. The Mount Morris station has been remodeled since last year, platform lowered and some painting done.

Bradford Division.

This division is almost entirely in the State of Pennsylvania, there being only about seven miles in this State, extending from State line to Carrolton. Old sixty-three pound steel rails from main line are used, and are much worn and hard to keep in adjustment though some excellent work was noted. The cross-ties are strong in life, and annual renewals are ample. Grass, weeds and brush were noted not cut, though this work is to be pushed shortly. Point switches are used, and found in safe condition. The fencing can be improved upon, though in some places it is in good repair and condition. Limestone passenger station needs painting inside and out. Near Carrolton is about twenty-one bays of pile trestle, and is old. If it is to be kept up, would suggest that piles be cut down and pine bents be substituted.

Next south is a four-bay structure on piles of oak, only fair. This is true of most of the wooden structures. An eighty-bay pile structure has new caps and bracing near Allegany river. Something will have to be done with most of the timber structures in the way of renewals, shortly. There are over sixteen hundred feet of pile and trestle bridges in seven miles. Stringers are covered with galvanized iron as a protection against fire, in many instances, and also prevents top of same from being examined.

Western Division — Hornellsville to Dunkirk,

is about one hundred and twenty-eight miles in extent; single tracked, except between Salamanca and Carrolton, which is double. There has been about thirty miles of Buckthorn wire fencing built last year. Between Salamanca and Dunkirk the curvature is about twenty per cent of the distance, which is forty-seven miles. The track gangs consist of a foreman and four men each; and seven gangs for this forty-seven miles. The traffic is not great on this division, and while the ties, line service and track adjustment is good as a general thing, yet there should be considerable work done all along the line. Four passenger trains and one way freight each way daily runs between Dunkirk and Salamanca. Between these points there has been since 1890 about fourteen thousand tie removals. There are quite a number of covered stone arches under embankment; east of Smithville is one that is now being repaired in a good workmanlike manner, and was reported at last inspection. There are others that need repairs, and the work is being done. Most of these culverts were built of a very poor kind of stone which in time disintegrates badly. The masonry, generally speaking, on this division is in good condition, yet some pointing and some minor repairs are necessary. Near Salamanca is a through Howe truss bridge of ninety feet span, and quite a little repairing and strengthening has been done within two months upon it. Next west is a new through plate girder, 100 feet span, with false work under it at time of inspection, and was substituted for an old through Howe bridge built in 1880. The new structure is very good. Bridge No. 35 is another new plate girder, about 100 feet span, in place of an old Howe-truss bridge built in 1879; also a small girder in place of timber approach now partly filled. Bridge No. 30 is a Howe-truss, about 100 feet span, and an approach of trestle about fifty-six feet long, all old, and should be replaced by modern iron structure. Quite a number of rolled I beam girders need painting, which is also true of some of the truss bridges. There are quite a few small openings, ranging from four to seven feet, that should be arched or iron pipes inserted; while safe now, they are the cause of constant attention and repairs, and if covered, as suggested above, will be permanent and safe. West of Smiths' Mills is a three-bay trestle, bents about eight years old; should be replaced with through-plate girders. Bridge No. 45 should be treated in like manner. Bridge 46 is trestle, three-bay and timber is said to have been ordered for renewal. West of Sheridan station is a trestle on bents that could be narrowed and I beams and masonry abutments constructed, if permanency is desired. Quite a few small trestles of two and three bays near the last mentioned should be narrowed and iron superstructures with masonry walls sub-

stituted. West of the grade crossing by the Western New York and Pennsylvania Railroad is a small opening with rotten lagging, in very bad condition, not safe. Would recommend iron pipe or stone box.

Salamanca to Hornellsville.

From Carrollton to Wellsville is seventy-eight-pound rail, and from Wellsville to Hornellsville is seventy-four-pound steel rail. Fifteen miles of sixty-three-pound rail has been taken up and eighty pound rail substituted since last inspection. Since 1890 85,000 ties have been bedded, and twenty-five miles of gravel ballast put in. The structures between Salamanca and Carrollton are in fair condition. Bridge 18½ is an entirely new through-plate girder thirty-five foot span in place of arch culvert. The bridge next east is now an iron deck-girder new in place of timber girders, about seventeen foot span. Next east of Vandalia station is a sixty-one-foot Howe-truss bridge through, about ten years old, has no floor and should be replaced by new iron structure. Bridge 25 is a Howe truss bridge, seventy-four-foot span and ten or more years old, has no floor and is not in good condition. Should be replaced by new iron bridge; masonry good. West of Friendship station there has been quite a little repairing done on small structures. East of Andover station are a number of small structures that should be made permanent by using iron pipe, and where not feasible, rolled-beams or iron girders should be placed. The structural appurtenances upon this division are many and quite varied, and while considerable is being done in betterments yet much more could and should be accomplished to ensure perfect safety in a practical sense.

The passenger stations are generally as before reported. Some remodeling and overhauling has and is being done, notably Alfred, Almont, Wellsville, Belmont, Belvedere and Friendship. Cuba station is now a temporary structure; old one burned. The design for new one completed, and will shortly be constructed. The roadbed, track adjustment and alignment is very fair, and grass, weeds and brush is being moved and cleaned up in many places, and yet there is considerable of this work to be done. The ditching generally is well attended to. The truing-up of curves and alignment was noted, and is greatly to be commended for the constant readjustment when ballasting is done, sags taken out, etc., changes the original curve line very materially and is often the direct cause of derailment. Considerable ballasting has been done, and more is to follow, as is evinced by the quantities of material on hand. Much work is being done in the way of fencing, and while quite a little of it is broken and down yet evidence were frequently noted where the work is being pushed.

South Western Division — Jamestown to Buffalo Creek Junction.

Single track and about seventy miles in extent. The first trestle south of the Buffalo Creek Junction, and in the yard virtually is about ninety-seven feet over all, twelve-foot centers on bents. This structure should be replaced by filling if possible. Next follows eleven separate openings of spans, averaging about twelve feet, that have been filled since 1890. Near mile post No. 6 is an iron deck-girder, oak floor, good masonry in good condition, except needs painting. Next south

is a forty-foot deck-girder in good form with good strong masonry substructure, but needs pointing, and bridge needs painting. Next are two small openings that have been filled since last inspection in 1890. It is pleasing to note the large number of small openings that have been filled since 1890. Near Big Tree station is a small opening with timber stringers that should be filled and iron pipe utilized. Bridge 4, near Water Valley station, is an iron deck-truss two spans; needs painting; has a new pine floor. Bridge 5 is over Eighteen Mile creek, as is No. 4, iron deck viaduct, in apparent good form; floor is in strong life. Bridge 7 is about 104 foot span, deck-truss, iron. Some of the oak ties in the floor are old and bad, and need renewing. South of Collins station is an opening 250 feet over all, iron deck-truss; it should have a new standard floor. Guard rails were noted on all large structures. On section No. 6 is a small structure over a creek, that is new since 1890. Bridge No. 11 is a pony Howe-truss bridge, about fifty foot span. New iron structures should be placed here, and also over Cattaraugus creek, Nos. 12 and 12½, where there are two spans of about 120 feet each, Howe-truss bridges. Next to bridge No. 13 which is a Howe-truss seventy-three feet over all, and in fair life, is an under-highway crossing in a ravine, spanned by eight bays of trestle, ten-foot centers, pine bent. This structure, if to be maintained, should be repaired very soon. On station No. 7, and southerly, are a number of small openings and wooden structures that should, if possible, be replaced and made more permanent. A pile trestle bridge, which was three bays in extent, has been filled, leaving an opening of twelve feet. Bridge 15 is composed of Howe-trusses, about eighty-foot span, over a creek; oak floor in fair life; trusses needs extensive repairs if to remain, but should be replaced by a new iron structure. South of Pine Valley station are a number of wooden structures that need repairs badly, though not perhaps dangerous, yet should be looked after carefully; this is true of most every structure until Conewango is reached. A pile bridge of five bays, sixty feet over all, has been repaired since 1890, by inserting pine bents, sills resting on piles that have been sawed off near the surface. Another structure, twelve-foot opening, has been filled since 1890 near Conewango. Southwest of last-named station is a thirty-six foot opening, filled, and iron pipes inserted since 1890; next southwest is a twelve-foot opening that should be filled, and iron pipes used. Almost every structure until Waterboro Junction is reached, needs constant attention and repairs, and more permanent maintenance is suggested. Quite a few of these openings could and should be filled and narrowed. Southerly from Waterboro Junction is a trestle about seventy feet over all that has been narrowed up to twelve feet by filling since last inspection, and another near by of twelve-foot span entirely filled since 1890. Southwesterly of Kennedy station is a Howe-truss bridge over a creek, about eighty-six-foot span, that has been repaired considerably; new floor beams and new floor. On section twelve is a new eighty-foot span pine-connected iron bridge, and deck-girder approaches about forty feet this year, in place of old Howe-trusses. Bridges 24, 25, 26 and 27 are all new deck girders in extra good form and condition. The three-bay pile bridge, double track, over raceway in Jamestown yard, should be replaced by an iron structure for permanency. It is now in need of

much repair. The general alignment, roadbed and ditches are in good form and condition, ballast is very good in places; grass, weeds and brush are being cut and cleaned up. Fences are in very fair condition. The tie renewals were noted as quite extensive and of a very good quality. Quite a few of the passenger stations need painting, and otherwise looked over, but with the exceptions of North Collins and Eben Center, the stations are presentable. The two exceptions are a disgrace to the road, and I would suggest new stations as soon as possible; point switches are used as before, and are kept in good working order. The cattle-guards, cross-fences and grade-crossing signs are maintained fairly well in a general sense, but considerable work is suggested in this respect. Slats are gone in not a few places, and paint is lacking also.

New York, Pennsylvania and Ohio Division.

From Jamestown to State line is fourteen miles. This line changes to single track at the Chautauqua Railroad grade-crossing. Bridge 12 over the lake outlet in Jamestown, is new plate girder through, in good condition in every respect. There has been quite a few small structures damaged by wash-outs recently, and repairs are very necessary as soon as possible. The iron work on some, if not all the small structures need painting. A fifteen-foot opening, masonry wall, is washed out badly and needs to be repaired immediately. The parabolic girders on this line are in strong life, but need painting. There are two of the parabolic through girders. There are about eight small wooden structures, and some need repairs badly. The two plate girders, new, are in good condition. The six-rolled beam structures are in good condition, but should be looked over. The masonry on this line needs pointing and some attention; but generally it is in good condition. For the four miles next the State line eighty-pound steel rails has been laid new. The adjustment of the track and general roadbed is in good form and well taken care of. The fences are attended to, but still some work should be done in order that the right of the way be kept in order. The ballast is made up of cinders, furnace slag, gravel, etc., and not a little work is being done in this direction all along the line. The passenger station at Ashville needs considerable painting and plastering, and the steps in front should be made with less rise per step. So with Watt's Flats station also. Grant's station, some plaster falling, and should be generally overhauled.

Jamestown to Salamanca.

All single track, except twelve miles, which is double. Steel rail, sixty-eight and one-half pound and fairly new. Grass and weeds not all cut, though working at it in places. The total distance is about thirty-three and a half miles. There is considerable good deep gravel ballast. The roadbed is in good form generally and track adjustment is very good. Curves are most excellently attended to on the main line on the entire system, which probably is due to the professional ability of all the road masters. The truing up elevation of outer rails and bracing is extra. The renewals are many and of a good size. The small openings with iron girders are in good life, but considerable painting is needed, and masonry should be pointed on quite a few of

them. The small wooden girder openings are in fair life generally, but repairs on floors were noted as needed. Not a few new floors have been laid since 1890. All of the large iron bridges are in good form and condition. The trestle near Red House station is old and if possible should be filled, except small opening which should be iron girders on masonry. The passenger stations are about the same as previously reported.

ROCHESTER AND LAKE ONTARIO RAILROAD COMPANY.

From North avenue, Rochester, to Sea Breeze, Lake Ontario. Single track six and a half miles long. Purely a summer pleasure road. Standard gauge, old rail, very light, needs heavier. Two thousand ties renewed last year. No ballast of any moment is used, and the track adjustment and roadbed is only fair. The alignment is poor and should be attended to. Thirty to thirty-two trains are run each way on Sunday. No great speed is maintained, and accidents are few.

There are but four trackmen on whole line. There are but five small structures in all, and while kept well in repair, some of them should be filled and iron pipes utilized. There are a number of stopping places furnished with platforms and outside sittings, and regular stations at either end, and both in good condition. No change or betterment in maintenance was noted.

SILVER LAKE RAILROAD.

From Silver Spring station, on the New York, Lake Erie and Western Railroad, to Perry, single track and six and a half miles in length; there has been, since 1890, about 1,200 tie renewals. Grass, weeds and brush were not mowed at time of inspection, and in many places grass and weeds cover the entire track for long stretches.

Three miles of gravel ballast are promised for this summer. Where the road skirts the lake front some work has been done since last inspection and considerable more is needed. Unsafe places along the immediate lake shore still exist, and it is suggested that ample protection against washing be looked after immediately. Steel rails, held at joints by angle bars, are generally in fair adjustment, though not a little attention is desirable at places. The passenger stations are kept in only fair condition. Along the lake front is quite a resort for camping out, and there are platforms and outside sittings in fair order. The small structures, three or four in number, should be renewed; they are in poor condition. The truss bridge at Perry is in need of repairs, though, perhaps, in safe condition now. A small sum expended judiciously would add greatly to safety and permanency along entire line.

SEA VIEW RAILROAD.

To the Honorable the State Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—In accordance with orders of your honorable body October 17, 1892, requesting an inspection of the Sea View Railroad, your inspector submits the following report:

In company with the superintendent of the road a careful examination was made October 25, 1892. This road is about one mile in length, extending from Brighton Beach westerly on Coney Island. Its tracks, two in number, are elevated about sixteen or eighteen feet above ground. The rails are quite light in weight, being little over fifty pounds per lineal yard, and while in fair condition as regards life, the alignment is not satisfactory, and it is suggested that more attention be given in this respect.

Some 135 trains are run daily during the months of July and August, each consisting of one car and engine, the total weight of which, when loaded, with, say 100 passengers, is about twenty-one and a half tons net. Heavy guard timbers were noted on either side of rails, and with few exceptions they are in strong condition. The ties are 4x8, laid flat, and average about twelve inches apart; not a few of these will need renewing before next season. The rail joints are fastened by iron bars about two inches wide, sufficiently long, and hold two bolts on either side of joints. Strict and constant attention should be given these fastenings during the busy season. It is claimed that ten miles per hour is the maximum speed attained. Aside from the deck-plate girders near the westerly end, and the iron truss bridges over the Boulevard, the structure is composed almost entirely of wood. All of the iron, as well as wood, should be properly painted before the season opens. And much economy in life of material will be obtained by taking great care in preparing the surface of both wood and iron for the paint, which should consist of heavy body, and should be rich in lead and oil. The company should employ some competent man to see that all details of scraping, cleaning and mixing the paint, as well as evenness of coating, is accomplished in a good, workman-like manner.

Considerable new spruce piling was noted; the "boxed piles" spoken of in previous reports have been largely replaced by new piles. There are only about twenty-two boxed piles remaining, and these were found in the yard at the easterly end. One box was opened, haphazard, and found to contain extra well set "Hydraulic cement grounding." The pile was also in a good state of preservation; but, while somewhat satisfactory in this one instance, it did not prove to your inspector's mind the advisability of this method. Those remaining are scattered and not in position to do great harm till new piles should be placed in their stead.

Your inspector would suggest a renewal of all the piles under the platform at east end where decayed; some thirty were counted as being much in need of immediate renewal. The suggestion is also made that bracing timbers, not less than three by eight inches be properly spiked to the pile (where renewed) in every direction, so as to make "sure bond" and unquestioned stability. A row of break-water piling has been recently driven along the water edge for about 1,200 feet, immediately in front of hotel, and extends westerly beyond the railroad platforms, protecting the pile underneath not a little. The wooden girders show considerable decay on corners along the whole structure, and while many need only dressing down, there are quite a number that should be wholly renewed. Not a little blocking on top of caps will certainly need renewal before the season of 1893.

West of Third street, in West Brighton, are quite a few piles that should be renewed; the "dry rot" occurs near the surface of the ground, the sand, heated, as it is during summer, furnishes, no doubt, the direct cause. Third street has been recently opened and will necessitate the removal of one bent. Fourth street, it was said, will probably be opened soon. There are some eight or nine of the square pine posts directly east of Third street that were found to be rotted almost through near the surface of the ground; these, with not a few more, should certainly be renewed.

There is considerable square-pine, "double-post" trestle work, and your inspector would suggest that a very careful examination be made of every supporting post, and also pile (not renewed within the last two years), from the surface of the sand down about four feet on an average to water, and new ones placed where "dry rot" is found. These excavations can readily be made with shovel alone, and would seem absolutely necessary to accurately ascertain the true condition of all old work, and place the structure in positive safe condition for 1893.

East of the Boulevard the Brooklyn and Coney Island Electric Surface Railway crosses on a curve, which is laid so close to one of the trestle posts that about one-half of it has been cut away to allow cars to pass. It is suggested this curve be "looped" and moved westerly far enough to give ample clearance, it now being quite dangerous, particularly to passengers on the electric cars. Not a few bolts were noted out of place at "heads" of piles in yard at

Brighton. All of the bolt and "cap" timbers along the entire line should be carefully overhauled, tightened and replaced in even bearing before the season opens.

There is no water kept on deck to be used in case of fire, and the reason given your inspector by the superintendent is the frequency of passage by trains, which would seem sufficient. But the great danger from fire is not on top, but along the bottom of the structure, where fences are nailed to the supporting trestle posts, which, in not a few instances, stand in small back yards and in close proximity to tumble-down outhouses and much inflammable matter which the small boy delights to play with. Your inspector would suggest that a competent watchman be constantly employed while trains are moving, and that he keep sufficient water in barrels at short distances along the line and under the structure.

In conclusion it would seem proper to say that too much care cannot be given to a structure situated as this is, and if it is to be operated in the future for many years, iron should certainly take the place of wood. While such a change would necessitate a great outlay of money, absolute safety to the public would seem to be sufficient reason. This change could be made gradually by replacing with iron, say two or three hundred feet each year.

Respectfully submitted,

FRANCIS K. BAXTER,

Inspector.

Dated, ALBANY, October 28, 1892.

SKANEATELES RAILROAD.

From Skaneateles Junction to Skaneateles village, single track, five miles long. The junction is with the Auburn branch of the New York Central and Hudson River Railroad. There is but one passenger station of note, and this at Skaneateles village. The offices are here, and it is kept in very good condition. The outlet to Skaneateles Lake is followed very closely by the road. Steel rail, fifty-six and sixty pounds per linear yard, is used, mostly the latter. There are fourteen trains daily, and considerable way freight is handled on the nine or ten sidings and switches which connect with the mills along the line. Standard gauge and very fair track adjustment. The sleepers are in strong life and added in fair form and condition. The highway is paralleled most of the entire distance, and very few fences are up. The accommodation of passengers along the line is ample, waiting-places are had in some of the mills, and there are a number of platforms and outside sittings. There are ten trestle bridges, from two to four bays each, and all in fair life, though some repairs to floors and abutments are needed. There are a few very small openings where iron pipe could be utilized, and should. No change of moment since last inspection, and general maintenance is only fair. Grass and weeds are not cleaned up.

SPLYTEN DUYVIL DRAWBRIDGE.

To the Honorable the State Board of Railroad Commissioners:

GENTLEMEN.—In accordance with instructions received November 21, 1892, as regards the "Splyten Duyvil drawbridge" and surroundings, on the old main line of the New York Central and Hudson River R. R., the following is respectfully reported: The bridge, which is commonly called a "Jack-knife draw," seems at present to be in fair working order, generally speaking, though considerable repairs and improvements could be made. The hoisting cable upon the easterly side is perhaps a little short, for instead of settling into place easily the bridge has to be dropped or "chucked" when being closed.

The power for handling the extra weight of bridge, over counter weights, is situated upon a platform directly over and about thirty feet above the tracks. There is no covering for boiler or engines, and not a little energy is lost by condensation; the steam-pipe being exposed for about twenty-five feet. The boiler leaks and should be attended to. The engines are small, being 7x12 cylinders, and while being able to lift the weight, yet it would seem for best results the capacity should be greater.

The whole lifting apparatus, your inspector was informed, is only temporary and experimental, in view of deciding upon what is best adapted for this particular location. The new bridge proper, placed last fall, is excellent in form and strength. Considerable repairs and reinforcements near the southeast corner of the bridge is necessary with reference to "piling" for protection. This should not be delayed, for evidences were noted by your inspector of damage already done to piles and cap timbers by passing boats. There are on an average ten or more vessels each way daily through this opening. Some eight passenger trains and about forty-five freight trains cross this bridge each way daily also, making no little care or attention necessary at this point. Two wires at present extend along the south-bound track from the signal tower, (situated near the junction with the new main line, and about thirty rods north of bridge) to and across the draw, and passing on southerly for quite a distance to signal tower No. 40; these wires have to be disconnected each time the bridge is opened, and connected up again when closed. No lever is used, but instead the bridge tender is obliged to tug and pull on them with his hands until the "slack" is taken up sufficiently to connect or disconnect them, as the case may be. It is very difficult to accomplish this, particularly in cold, wet weather, and it is suggested if the wires are to remain as they are (on top of bridge) some kind of lever be utilized. A common switch lever for instance could be made to answer. The wires for signal No. 38, still further south of 40, formerly, were also in use, but at present repairs or modifications are being made. The apparatus for holding the bridge in place when closed is located upon the south-bound track. The bridge tender throws the bolt into place by lever on bridge, and it is then locked by the signal-man at the tower; this appliance while somewhat crude, seems to work fairly well.

While no speed of moment is made across this structure, and considerable time is allowed comparatively speaking, with reference to opening and closing, still a careful inspection by the road officials is suggested, and all means adopted that will enhance safety in every respect.

Respectfully submitted,

FRANK K. BAXTER,

Inspector.

Dated ALBANY, N. Y., November 25, 1892.

NEW YORK, January 18, 1893.

To the Hon. Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Referring to the report of your inspector, dated November 25, 1892, upon our drawbridge over Spuyten Duyvil creek on the Hudson river division of this road, a copy of which has been referred to me by President Depew, for review, I have the honor to respectfully advise you as follows in regard to several points upon which your inspector comments unfavorably. I would premise by stating that this structure is being built by contract and that at the time of its inspection by your inspector it was not completed and has not even as yet been accepted from the contractor as complete and satisfactory.

First. "The hoisting cable upon the easterly side is perhaps a little short." This results from a slight settlement of piling foundations at one point, and has been rectified.

Second. "There is no covering for boiler or engines." A house over the engines and boiler was under way at the time of this inspection and has since been completed.

Third. "The boiler leaks and should be attended to, etc." Several minor detail imperfections were known and were receiving attention at the time of your inspection which will have to be entirely rectified and made satisfactory to me before the work is accepted from the contractor's hands. It is still under process of improvement.

Fourth. "The whole lifting apparatus is only temporary and experimental in view of deciding upon what is best adapted for this particular location." Your inspector was wrongly informed in regard to this. The structure as now being built is in pursuance of an order and under a permit issued by the Secretary of War in connection with the U. S. Government work of the ship canal through Harlem river. It is only temporary in so far as that it is intended for use until the time comes for deciding the general question of a new bridge structure which will be required when the government arrives at that stage of its work of forming the enlarged mouth to the ship canal upon the Hudson river. When that time arrives an entirely different structure between the new bulk-head lines established by the government will be required for the railroad, this, however, being sometime yet in the future, the government is satisfied that the present drawbridge will answer all necessary purposes until that time.

"Considerable repairs and reinforcements near the southeast corner of bridge is necessary with reference to piling for protection, etc." This refers to damage inflicted upon this pile protection by collision of heavily laden mud scows passing through the opening. A contract has already been made for repairing this damage in a very substantial manner, and the work is now under way.

Fifth. After a lengthy description by your inspector in regard to signaling appliances in connection with the operation of this drawbridge, he makes certain suggestions in reference to which I beg to advise you that the appliances as your inspector saw them were but temporary, pending the putting in place of permanent fixtures and the connection of the same into the general block signal plant at that point. The "lever," the absence of which your inspector comments upon has been applied and was in use shortly after he made his inspection, and in regard to the signal apparatus, the general superintendent reports to me from the signal department that it is intended further to considerably improve the connections etc., with the signal cabin at Spuyten Duyvil, and that all modern appliances for its protection will be applied to this drawbridge.

Very respectfully yours,

WALTER KATTE,

Chief Engineer.

MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTION 166 OF CHAPTER 565,
LAWS OF 1890.

JULY 6, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Reply of Birdsall Kennedy to the answer of the New York, Lake Erie and Western Railroad Company, in the matter of his complaint against the Erie and Genesee Valley Railroad Company.*

Reply of the clerk of Batavia, George E. Perrin, to the answers of the New York, Lake Erie and Western, and the New York Central and Hudson River Railroad, in the matter of the complaint of the village of Batavia against said roads, asking for switch connections. Referred to Commissioner Rickard.

Letter of G. M. Diven, with accompanying certificate of physician, in answer to subpoena of Board in matter of the complaint of Murdock & Conger. Laid on table.

Answer of H. Walter Webb, third vice-president New York Central and Hudson River Railroad in matter of petition of residents of Clarence, East Clarence, etc. Ordered usual course.

Letter of H. Walter Webb, third vice-president New York Central and Hudson River Railroad, in matter of the complaint of the New York Lumber and Wood-working Company of Batavia. Ordered usual course.

Letter of B. F. Skinner of Fredonia, forwarding complaint of D. G. Pickett, supervisor; S. W. Reed, highway commissioner of Fredonia, relative to dangerous crossings. Ordered, that Secretary send complaint back asking what remedy is sought, whether flagmen, gates or other remedy, and calling attention to section 33, chapter 565, Laws of 1890, suggesting that action taken under this provision may be more efficacious than any taken by the Board.

Printed communication from the railroad commissioner of Michigan to railroad companies of that State, relative to couplers and air-brakes. Referred to Commissioner Rogers. Consents in matter of the application of the Dunkirk and Fredonia Railroad Company for a change of motive power. Ordered filed.

Letter of Chas. B. Strevel, relative to his device as to ventilating and lighting tunnel. Ordered, that Secretary write that the Board had decided upon methods which are now under experimentation. Until it is demonstrated that the methods decided upon are successful or fail it is useless to seek an interview.

Letter of W. J. Richardson, conveying consents in matter of change of motive power on Atlantic avenue. Ordered filed.

Letter of C. M. Depew, president New York Central and Hudson River Railroad relative to change of time-tables. Ordered filed.

Letter of M. F. McGowan and J. H. Dulin, relative to ventilation of tunnels. Ordered filed.

Letter of J. R. Van Ness conveying reply of complainant in matter of complaint of Ray Hubbell against the Fonda, Johnstown & Gloversville Railroad. Ordered that hearing be set down for Monday, July 13th, at 2 P. M., Capitol, Albany.

* Commissioner Rogers submitted a report in the above matter, which was adopted and ordered issued.

Letter of William Richardson, president Atlantic Avenue Railroad Company relative to change of motive power decision. Ordered that Secretary write that Board will not meet in New York this week, but will according to custom meet in Albany on the 18th inst.

Letter of William E. Lockwood, relative to locomotive hammer blow. Ordered acknowledged and filed.

Letter of T. H. Wicks, president Mann Boudoir Car Company relative to annual reports. Ordered that Secretary write that Board will require annual reports as in the past under the provisions of sections 158 and 171 of chapter 585, Laws of 1890.

The Board took a recess until Tuesday, July 7th.

TUESDAY, JULY 7, 1891.

The Board heard W. Baker, representing John D. Teller and William B. Woodin, in Murdock & Conger against Ithaca, Auburn & Western. Ordered that the testimony of J. M. Diven be taken in Elmira by commission. Adjourned.

JULY 18, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Mr. Wm. Richardson, president of the Atlantic Avenue Railroad Company of Brooklyn, in an application for an increase of capital stock. Report, as dictated, granting the same adopted and ordered issued.

Correspondence of counsel in the matter of Ray Hubbell against the Fonda, Johnstown and Gloversville Railroad. Hearing on the same set down for September 8, 10 A. M.

Letter of Charles Howard acknowledging receipt of inspection on New York and New England railroad. Ordered filed.

Letter of T. H. Wicks relative to non-recognition of railroad commissioners' pass by Pullman palace car conductors. Ordered filed and that Secretary ask the Secretary of State for twelve blank passes to send him, and that the Secretary call the attention of the Secretary of State to the necessity of changing the reference to the law authorizing the issue of the same.

Letter of H. Walter Webb, third vice-president New York Central and Hudson River Railroad relative to complaint of Geo. Membery. Ordered usual course.

Letter of Edward Lauterbach relative to the Twenty-eighth and Twenty-ninth Street Railroad Company. Ordered filed.

Letter of New York Lumber and Wood Company of Batavia, relative to its complaint against Western Car Service Association. Ordered filed and case closed.

Letter of John King, president New York, Lake Erie and Western Railroad, relative to Chenango street crossing in Binghamton. Ordered filed.

Letter of Wm. J. Kelly complaining of the Stony Clove and Catskill Mountain Railroad Company, alleging discrimination in passengers rates. Ordered usual course.

Letter of Geo. F. Chaplin relative to accident on B. B. and West End Railroad. Ordered Secretary answer that the Board is not empowered to take cognizance of actions to recover damages. If Mr. Chaplin believes the case is one in which the railroad company is liable, a suit for damages in the courts is the proper remedy.

Letter of Eugene Cary relative to increase of capital stock of the Niagara Falls and Suspension Bridge Railroad Company. Ordered Secretary write what the Board will require.

Letter of Calvin Fairbanks of Angelica relative to obstructed ditch on Lackawanna and Pittsburg railroad. Hold on file.

Letter of J. C. Wibur, Stony Ford, and John B. Kerr, attorney O. and W. R. R., relative to Wilbur's complaint. Ordered, Secretary send Kerr's letter to West Shore railroad, and ask why the West Shore does not permit train No. 2 to stop at Cranston's as was agreed at the time of the hearing, and to inform Wilbur and the Attorney-General of the Board's action.

Letter of J. R. Swan, relative to the action of the Consolidated Railroad Company of Syracuse in its change of motive power. Ordered that Secretary write

Swan that no application has been made by such company, nor has the Board made approval of same. Also write Consolidated Company of Syracuse to know by what authority they propose to equip and have equipped and operated their road by electricity.

Ordered, Secretary notify the parties in the case of W. J. Cunningham, against New York, Lake Erie and Western Railroad that the Board has set down a hearing for Tuesday, the twenty-first instant, 2 P. M., and that a copy of Moss' affidavit be sent the road.

Ordered that Secretary write Central to ask why coroner's report on Tarrytown disaster has not been forwarded.

Ordered that when the Board adjourn it adjourn until Tuesday, the twenty-first instant, at 1:30 P. M.

JULY 21, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of Jeremiah W. Shants relative to neglect of the West Shore to cut the grass along their road. Ordered usual course and Secretary write calling attention to section 52, chapter 565, Laws of 1890. Letter as dictated on file.

Letter of James S. Root relative to the failure of the railroad to provide farm crossings and cattle passes. Ordered usual course.

Letter of C. H. Platt relative to interlocking signals in Fourth avenue tunnel. Ordered that Secretary inform Mr. Platt that the Board will meet at his office, Grand Central depot, on Friday, twenty-fourth instant, 12 M.

Letter of S. H. Dickinson, relative to the Bullville station building. Ordered Secretary send copy of the communication and of Mr. King's letter to the president of the company and ask why are not your orders carried out.

Letter of R. Bell, general superintendent Western New York and Pennsylvania railroad, relative to cattle guards, etc. Ordered that Secretary write that cattle guards are required by section 82, chapter 565, of the Laws of 1890, and that the Board has approved of the form of cattle guards known as the beveled edge slat cattle guard, such as are in general use on the West Shore railroad, and to say that it adds to their efficiency if painted white.

Letter of Benjamin Hammond, president Fishkill Landing village, relative to a franchise to a street railroad. Ordered that Secretary write as dictated letter on file.

Letter of L. W. Ledyard, Cazenovia, relative to highway crossing. Ordered that the Secretary answer referring them to section 83, chapter 565, Laws of 1890, and to section 422 of the penal code.

Application of the Consolidated Street Railway of Syracuse for change of motive power. Ordered that hearing on the same be set down for Monday, July twenty-seventh.

Letter of C. M. Bowles, relative to delays on Harlem branch. Ordered usual course.

Letter of S. D. Coykendall, relative to the complaint of W. J. Kelly. Ordered Secretary write that if the railroad company sells mileage tickets to any one, they must to every one. Send copy of letter to Kelly.

Letter of J. D. Layng, relative to the Wilbur complaint. Ordered that copy of letter be sent to the New York, Ontario and Western and Secretary write that Mr. Wilbur complains his milk is not delivered on Sunday, and ask them how they propose to remedy this.

Letter of New York Lumber and Woodworking Company, relative to its complaint against the Western New York Car Service Association. Ordered filed.

Letter of John P. Hudson, relative to automatic electric railway block system. Ordered filed for future consideration.

Letter of John King, president New York, Lake Erie and Western Railroad, relative to complaint of Birdsall Kennedy against the Erie and Genesee Valley Railroad Company. Ordered copy forwarded to Mr. Kennedy.

Letter of Geo. E. Pingsley, announcing satisfaction with the result of his complaint against the New York Central and Hudson River Railroad. Ordered filed.

The Board adjourned until July 27th, 1.30 P. M.

JULY 27, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of John Lewis, as to meeting with the commissioners, relative to Timpson's station matter. Ordered letter as on file be sent him.

Letter of H. S. Marcy, president Fitchburgh Railroad, as to inspection, reports on said road for 1891. Ordered letter as on file be sent.

Letter of Wm. A. Baldwin, vice-president Buffalo, Rochester and Pittsburgh Railroad, relative to complaint of I. Eugene Williams against said road. Ordered usual course.

Letter of Birdsall Kennedy, in matter of his complaint against the Erie and Genesee Valley Railroad, operated by the New York, Lake Erie and Western Railroad. Ordered carried on file.

Letter of Geo. W. Burt, attorney Oswego Street Railway Company, making application for approval of a change of motive power, and for approval of an increase of capital stock. Ordered hearing in change of motive power case be set down for September 8, 1891, and letter be written Mr. Burt relative to change of motive power and increase of capital, as on file.

Letter of A. L. Western, relative to rate of fare on New York, New Haven and Hartford Railroad. Ordered letter as on file be sent him.

The Board heard the application of the Syracuse Consolidated Railroad Company for approval of a change of motive power to electricity. Major F. T. Poole and Benjamin Stolz, appeared for the application, E. Nottingham, A. T. Goodwin and A. M. Palmer, representing the People's Railroad of Syracuse, appeared in opposition to the change on that part used in common by the Consolidated and the People's railroads. Charles E. Ide, corporation counsel, appeared for the city of Syracuse.

The Board adjourned until Tuesday, July 28, at 10 A. M.

JULY 28, 1891,

The Board met at 10 A. M.

The Board heard the case of M. J. Cunningham against New York, Lake Erie and Western Railroad Company. Arthur Moore appeared for complainant; L. E. Carr for the company.

The Secretary submitted letter of William J. Kelly, relative to his complaint against the Stony Clove and Catskill Mountain Railroad as to fare. Ordered letter sent Mr. Kelly, as dictated and on file.

Letter of B. W. Stryker, relative to map being filed of the New York Central and Fort Orange Railroad. Ordered letter sent C. C. Woolworth, general manager of road, as dictated and on file.

Letter of John M. Given, asking for designation paper in matter of issue of bonds by Dunderberg Spiral Railway. Ordered sent.

Letter of Simeon Borg, president New York, Susquehanna and Western Railroad Company, acknowledging receipt of inspection report. Ordered filed.

Letter sent C. H. Platt, general manager Harlem line, relative to modifications and additions to signals in the Fourth avenue tunnel. Letter sent as dictated and on file.

Commissioner Rogers submitted a report in the matter of the application of the Syracuse Consolidated Railroad Company, for change of motive power. Adopted and ordered issued.

The Board adjourned until Monday, August 3d, at 1.30 P. M.

AUGUST 3, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of Attorney-General Tabor, relative to complaint of Wilbur against West Shore and New York and Ontario and Western railroads, referred to him by the Board. Ordered letter as dictated and on file be sent Attorney-General.

Complaint of D. G. Pickett, supervisor, and S. W. Reed, highway commissioner, town of Pomfret, Chautauqua county, relative to dangerous crossing of Lake Shore and Michigan Southern and New York, Chicago and St. Louis and Western New York and Pennsylvania railroads in said town. Letter sent Messrs. Pickett and Reed as on file.

Letter of C. N. Platt, general manager Harlem line, relative to signals. Letter as dictated and on file, ordered sent Mr. Platt.

Letter of Cantine Tremper, treasurer Watervliet T. & R. R. Co., relative to filing annual report. Ordered letter sent as dictated and on file.

Letter of George Mernery, complaining of fences being down on his farm on line of N. Y. C. & H. R. R. at Sacketts Harbor. Ordered letter sent president Depew as dictated and on file.

Letter of N. Cartwright, Jr., relative to rates on coal on Ulster and Delaware R. R. Ordered letter sent Mr. Cartwright, as dictated and on file.

Letter of John King, president N. Y., L. E. & W. R. R., relative to Bullville station. Ordered usual course, and complainants be asked to notify Board if promise is carried out.

Complaint of B. H. White, against New York and Massachusetts Railroad, relative to fences being down and fires caused by engines. Ordered usual course.

Letter of Wilson S. Bissell, relative to complaint of J. S. Root, against Buffalo and Geneva R. R. Co. (merged into Lehigh Valley Railway). Ordered filed.

Letter of John B. Kerr, vice-president and general commissioner New York Ontario and Western Railway, relative to Wilbur milk complaint. Ordered copy sent Wilbur.

Letter of H. Walter Webb, third vice-president New York Central and Hudson River Railroad, relative to Bowles complaint against Harlem Railroad bridge. Ordered carried on file.

The case of Barent W. Stryker against New York Central and Hudson River Railroad and Fort Orange Railroad Company, was referred to the Attorney-General, as per letter on file.

Commissioner Baker submitted a report in the matter of M. J. Cunningham and others against the New York, Lake Erie and Western Railroad. Adopted and ordered issued.

The Board adjourned until Monday, September 14, 1891, two P. M.

SEPTEMBER 14, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The secretary submitted the accumulated business under the rule, as follows:

Application of the Conesus Lake Railroad Company for permission to suspend operation during the winter months. Hearing set down for Tuesday, September twenty-second, 10 A. M., and the same ordered advertised.

Complaint of citizens of Utica against the New York Central and Hudson River Railroad Company, alleging unnecessary whistling in violation of company's rules. Ordered usual course.

Letter of William D. McNair, of Dansville, complaining that fences were not maintained on the line of the Erie and Genesee Valley Railroad. Ordered that copy as dictated be sent.

Letter of Josiah Perry, corporation counsel of Utica, alleging that abandonment of a portion of its route by the Utica Belt Line. Ordered that Secretary send a copy of the complaint to the company and ask it to inform the Board why it fails to operate the portion of the route referred to, and to Mr. Perry, informing him that it will notify him should it appear necessary to have a hearing.

Letter of the Chairman of the Board against the Long Island Railroad Company in the matter of conveying baggage by express and the delay therein.

Letter of the president of the company acknowledging receipt of the same and promising investigation.

Letter of J. R. Kingsley, inquiring as to the rate of fare on the Bath and Hammondsport Railroad. Ordered that Secretary write the company asking what rate of fare it charges per mile, and if more than three-cents, by what authority.

Letter of Francis E. Farman, relative to distances on Manhattan Elevated road. Ordered filed.

Letter of G. Clinton Gardner (of the New York and Massachusetts Railroad Company), being answer to complaint of B. K. White. Ordered usual course.

Letter of H. McGonegal (Syracuse and South Bay Railroad Company), relative to the status of the S. and S. B. R. R. Co.'s charter. Ordered Secretary write that his letter of August eighteenth was presented to the Board upon its reconvening after its annual vacation, and that the Board is unable to answer until it knows what the amount of the capital stock of the company is, and whether it has expended two per cent of the capital on the road.

Letter of James Merriman, relative to the faulty construction of the crossing of the Utica railroad over the tracks of the D., L. and W. R. R. Ordered Secretary inform the company of the complaint and ask for an answer.

Letter of Richardson Automatic Coupling Company. Ordered filed.

Letter of Wm. A. Baldwin (V. P.) Buffalo, Rochester and Pittsburg Railroad Company, relative to uniforming men in employ of the railroad company. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of Henry E. Ackerly, relative to rules and signals. Ordered the same be acknowledged and the writer informed the Board will take the matter into consideration.

Letter of Henry Wild as to rails on street railways. Ordered the same be acknowledged.

Letter of H. McGonegal (Hudson Electric Railway Company), relative to fares to be charged on street railroad running between two or more towns. Ordered that letter as dictated be sent.

Letter of Daniel F. Remsen, chairman of committee New York State Bar Association, as to suggestions for amendments to Corporation Law. Ordered that letter as dictated, with report of Board, be sent.

Letter of Thomas J. Pratt, relative to device for relieving tunnels of smoke. Ordered filed.

Letter of Charles W. Bulckholtz, chief engineer New York, Lake Erie & Western Railroad Company, relative to certain signal plants on which he desired a hearing. Hearing on the same set down for Monday, September 21, 1891, 2 P. M.

Letter of C. L. Northrop against the West Shore Railroad Company, alleging fires caused from locomotives of trains. Ordered usual course.

Letter of J. D. Layng, general manager West Shore, relative to cutting weeds on line of track. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of H. Walter Webb, third vice-president New York Central & Hudson River Railroad Company, being answer to complaint of G. O. Mernbery. Ordered usual course.

Application of Elmwood Association of Buffalo to be heard, if application for change of motive power on the avenue be made. Ordered filed.

Letter of James A. Case, assistant statistician Inter-State Commerce Commission, relative to form of annual reports. Ordered filed.

Letter of W. E. Balue, vice-president Utica Belt Line, relative to classification of operating expenses of electric roads. Ordered filed.

Briefs in matter of application of Syracuse Consolidated Roads for change of motive power, and application of counsel for postponement until October 12th for hearing. Granted.

Letter of citizens of Bullville, announcing the building of the depot at that station. Ordered filed.

Letter of B. Kennedy, relative to failure of Erie & Genesee Valley Railroad Company to comply with the recommendations of the Board in the matter of his complaint. Ordered that Secretary write to ask whether the company continues to neglect to build the fences and if it does to say the Board will refer the matter to the Attorney General, and to answer immediately.

Letter of M. J. Cunningham, asserting failure of the New York, Lake Erie & Western to conform to the recommendations of the Board in the matter of his complaint. Ordered that the New York, Lake Erie & Western be cited to show cause why the facts should not be presented to the Attorney General for prosecution on the 21st inst.

Letter of Thomas W. Spencer, relative to accident on New York & Sea Beach Railroad. Ordered to be included among accident inquiries.

Letter of John S. Wilson, president Poughkeepsie Bridge Company, with map and drawing. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of M. N. Forney, to check valve on locomotives. Ordered filed.

Letter of G. Paul Froum, relative to a device to dispose of cinders in tunnels. Ordered filed.

Communication from the railway department Board of Trade, London, England. Ordered that letter as dictated be sent.

The Board adjourned until Tuesday, September 15th, 9.30 A. M.

SEPTEMBER 15—9.30 A. M.

Commissioner Rogers submitted a report approving the increase of capital stock of the Niagara Falls and Suspension Bridge Railroad Company. Ordered adopted and the increase approved.

Also a report in the matter of the application for an increase of capital stock of the Schenectady Street Railway Company. Adopted and the increase ordered approved.

Upon application of counsel on both sides in Ray Hubbell v. Fonda, Johnstown and Gloversville Railway Company, the hearing was postponed until September 22, 1891.

The Secretary submitted a letter from Mr. Allen, general superintendent Elmira, Cortland and Northern Railroad Company. Ordered filed with inspection report and printed with it.

Ordered that Secretary write J. M. Toucey, general manager New York Central and Hudson River Railroad Company, to the following effect: In response to a request from the Board, he answered, June 18, 1891, that he would transmit this Board a copy of the testimony taken before the coroner's jury relating to the accident caused by explosion of dynamite near Tarrytown, May nineteenth, as soon as it was ready. It has not been received yet. The Board desires it without further delay.

Commissioner Rogers submitted a report in the matter of the application of the Oswego Street Railway Company for a change of motive power. Adopted and ordered issued as the order of the Board approving the same.

Also a report in the matter of the application of the Oswego Street Railway Company for an increase of stock. Adopted, and the increase ordered approved.

Secretary submitted letter of Eugene Cary, relative to obligation to file maps of street railways. Ordered that letter as dictated, copy of which is on file, be sent.

The Board adjourned until 1.30 P. M. Monday, September 21st.

SEPTEMBER 21, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Mr. C. M. Buckholz, chief engineer, New York, Lake Erie and Western Railroad Company relative to certain interlocking switches and apparatus, signs at crossings, etc., approval of which he applied for.

The Board issued an order approving the same.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of M. L. Stebbins, manager Bath and Hammondsport Railroad Company, relative to fare charged on that road. Ordered usual course, and Secretary directed to write as to the chapter under which special charter was obtained.

Letter of D. C. Robinson, relative to extension of time in which to file report. Ordered time extended until October 10, 1891.

Letter of R. Kraft, relative to crossing on Staten Island Rapid Transit road, etc. Ordered usual course.

Letter of D. C. Robinson, relative to application for increase of motive power on Elmira and Horseheads Railroad. Ordered, Secretary write as to whether consents had been obtained.

Letter of J. M. Jones conveying letter of W. W. Brown relative to dangerous crossing at Penfield. Ordered, Secretary write pointing out law authorizing local authorities to proceed and asking which of two courses he will select.

Letter of John Muir (Edison Company) relative to statistics from electric road, from street railway companies for annual report. Referred to E. B. Hastings.

Letter of J. D. Layng (general manager West Shore Railway). Ordered filed.

Letter of C. R. Lockwood, Jamestown, relative to bridge over railroad tracks. Ordered, that letter as dictated, copy of which is on file, be sent.

Letter of Hon. Whitelaw Reid, United States Minister to France, relative to accidents near St. Maude, France. Ordered filed.

Letter of E. A. Wasson relative to the Staten Island Railway Company, relative to fare, accommodation of passengers, etc. Ordered, Secretary write asking the rate of fare road is legally entitled to charge, and that letter as dictated, copy of which is on file, be sent.

The Board adjourned until Tuesday, September twenty-second, at 10 A. M.

TUESDAY—10 A. M.

The Board heard Judge Balue and Mr. Van Ness in the matter of Ray Hubble against Fonda, Johnstown and Gloversville Railroad Company.

Also Mr. Brownell of Sprague, Morey Sprague and Brownell in matter of application of New York, Lake Erie and Western for permission to suspend the operation of Conesus Lake branch. Granted under conditions and report ordered issued.

Also in matter of McNair against New York, Lake Erie and Western operating Erie and Genesee Valley Railroad. Commissioner Rogers submitted a report. Adopted and ordered issued.

Commissioner Baker submitted a report in matter of accident near Champlain, August 5, 1891, on Ogdensburg and Lake Champlain branch of Central Vermont Railroad. Adopted and ordered issued.

Secretary submitted letter of R. Kraft. Ordered filed.

Also of S. A. Cheever, applying for permission to suspend operation of Rockaway village railroad during winter months. Hearing on same set down for Monday 28th, 2 P. M., and the same ordered advertised.

The Board adjourned until 28th inst., 1.30 P. M.

SEPTEMBER 28, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of John W. Boyle (Utica Belt Line) asking further time in which to answer in the matter of James Merriman. Granted.

Letter of J. F. Emmons, president Staten Island Rapid Transit Railroad Company, being answer to complaint of R. Kraft. Ordered usual course.

Letter of S. Gannon, general superintendent Staten Island Rapid Transit Railroad Company, relative to the rate of fare obtaining on the above road. Ordered filed.

Complaint of A. V. N. Etten & Son against the West Shore Railroad Company, alleging failure to conform to the conditions of a deed accepted by the authorities of the Wallkill Valley Railroad Company, lessors. Ordered usual course.

Answer of the New York Central and Hudson River Railroad Company to the complaint of Bernard Oeinck as to unnecessary whistling. Ordered sent to the complainant.

Application of the Rochester and Glen Haven Railroad Company for permission to suspend operations during certain winter months. Ordered that hearing on the same be set down for Monday October fifth at 2 P. M., and the same be advertised.

The Board heard Lewis E. Carr, attorney for the New York, Lake Erie and Western Railroad Company in the matter of M. J. Cunningham against said road, (citation for failure to conform to the recommendations of the Board). Ordered that proceedings be suspended until the Board can satisfy itself as to the contentions of counsel, that safety of operation is endangered and that Mr. Spencer be instructed to make an examination.

Also of R. T. Cummings representing the Rockaway Village Railroad Company in the matter of its application for suspension of operation. Ordered that hearing on the same be set down for October 5, 2 P. M., and the same be advertised in the Long Island Farmer and the Rockaway Journal.

Letter of A. E. Godefray, president Kanona and Prattsburgh Railroad Company, relative to maps and specifications of bridges. Ordered that letter as dictated, copy of which is on file, be sent.

The Board took a recess until Tuesday, September 29th, 10 A. M.

SEPTEMBER 29—10 A. M.

The secretary submitted the answer of John W. Boyle, attorney for the Utica Belt Line to complaint of Josiah Perry, corporation counsel, Utica. Ordered usual course and hearing set down for October 5th, 2 P. M.

Also letter of M. E. Blasier being complaint against Utica and Mohawk. Ordered usual course.

Also A. G. McKay relative to fares, Wagner Palace Car Co. Ordered that letter as dictated, copy of which is on file, be sent.

Board adjourned until October 5th, 1.30 P. M.

OCTOBER 5, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were approved.

The Secretary submitted the accumulated business, under the rule, as follows:

Complaint of M. W. Leech, commissioner of highways, Onondaga county, alleging dangerous crossing at Kirkville. Ordered usual course.

Application of the Riker Avenue and Sanford's Point Railroad Company, to suspend operation from the 1st day of January, 1892, to the 1st day of April, 1892. Ordered that hearing on the same be set down for Monday, October nineteenth, and the same be advertised.

Letter of Bernard Oeinck and others, announcing compliance with the recommendation of the Board in the matter of his complaint against New York Central and Hudson River Railroad Company. Ordered filed.

Letter of J. W. Boyle and Josiah Perry, attorneys on either side in the matter of the Utica Belt Line, asking postponement until November. Ordered postponed, hearing be set down for November ninth, 2 P. M.

Brief in the matter of the application of the Rochester and Glen Haven Railroad Company for leave to suspend operations in the winter months. Ordered that Secretary send for the proof of publication of notice and inform the company that, upon its receipt, the Board will act promptly.

Letter of William J. Fowler, relative to the application of the Rochester and Lake Ontario Railroad Company for leave to suspend operation. Ordered filed.

Petition of citizens of Jamestown, asking relief, at the Main street crossing of that city. Ordered usual course.

Letter of J. D. Layng (general manager West Shore), relative to complaint of C. L. Northrup. Referred to Commissioner Rickard.

Application of the Brooklyn Heights Railroad Company for an increase of capital stock. Granted, and order as dictated be issued.

Ordered that the order of Board granting permission to suspend operation of Rockaway Village Railroad Company be issued.

Ordered that Secretary write to the B., R. and P. R. R. Co. for the profile of road, showing the grade between Maple Wood and Scottsville.

Letter of L. I. Boynton Bicycle Railroad Company relative to annual reports and classification of grade. Ordered that Secretary write no report is required until road is in operation, and that the road does not seem to come under any classification of grade provided by law.

Letter of Arthur More (M. J. Cunningham case). Ordered acknowledged and filed.

Ordered that letter to Hon. C. M. Depew, relative to Fourth avenue tunnel accident, copy of which is on file, be sent.

Ordered that letter to Hon. C. M. Depew, relative to the Tarrytown accident, copy of which is on file, be sent.

The Board adjourned until Monday, October 12, 1891.

OCTOBER 12, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business, as follows:

Application of New Jersey and New York Extension Railroad Company for an increase of stock. Ordered that the Secretary write for a statement of the cost of construction and equipment in detail.

Letter of M. E. Blasier, relative to the fare charged by the Mohawk and Utica Railroad Company. Ordered that letter as dictated, copy of which is on file, be sent, and copy of Blasier's letter be sent read.

Answer of West Shore Railroad Company to complaint of A. V. N. Elting. Ordered usual course.

Letter of John S. Wilson, president Poughkeepsie Bridge Company. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of H. G. Young, second vice-president Delaware and Hudson Canal Company, relative to the accidents of the Cherry Valley Railroad Company. Ordered that letter as dictated, copy of which is on file, be sent.

Letter of M. M. Skiff of Jamestown, relative to the Main street crossing. Ordered that the Secretary write Mr. Spencer to go to Jamestown and make an investigation of the point complained of.

Letter of J. Perry, relative to Utica and Mohawk Railroad Company. Ordered that he be written that affidavits will be sufficient.

Letter of W. D. McNair, relative to fences on the line of the Erie and Genesee Railroad. Ordered that John King and Loren C. Woodruff and August Stein be ordered to show cause before the Board on Monday, nineteenth instant.

Application of the Kaaterskill Railroad Company for leave to suspend operations during the winter months. Ordered that hearing be set down Monday, nineteenth instant, 2 P. M.

Letter of Fuller and Glen, relative to frogs. Ordered that a letter as dictated, copy of which is on file, be sent.

Ordered that the Secretary write for full particulars as to the accident near Hyde Park, October tenth.

Also H. G. Young, of Delaware and Hudson Canal Company, as to accident near Binghamton. Ordered that the report relative to the application of the Rochester and Glen Haven Railroad Company for leave to suspend operations, submitted by Commissioner Baker, be adopted and issued.

The Board adjourned to Monday, nineteenth instant, 1:30 P. M.

OCTOBER 19, 1891.

The Board met pursuant to adjournment.

The minutes of last meeting were read and approved.

Alpheus Buckley, attorney, appeared for the New York, Lake Erie and Western road in the matter of the complaint of McNair and Kennedy against the Erie and Genesee Valley road and relative to fences, in answer to citation. A. S. Murray, Jr., for August Stein, answered similar citation by letter. Sprague, Morey, Sprague & Brownell (also for Erie road) answered citation by letter. Charles J. Bissell of Rochester (as a citizen) filed a letter in same matter. Ordered letters sent, as dictated and on file.

James H. Jones, superintendent Kaaterskill Railroad, appeared in matter of application of such company to suspend operation during winter months. No one appeared in opposition. Commissioner Rogers submitted a report in this matter granting consent to suspend, which was adopted and ordered issued.

Thomas W. Spencer, inspector, submitted a report of an inspection of the Erie road in the neighborhood of Underwood's Crossing, as ordered by Board in matter of M. J. Cunningham against New York, Lake Erie and Western Railroad Company. Laid over and carry on file.

Commissioner Rogers submitted a report in the matter of the accident on the New York Central and Hudson River Railroad, near Tarrytown, May 19, 1891. Adopted and ordered issued.

L. Marshall, counsel for Consolidated Railway Company of Syracuse, in matter of change of motive power, appeared and asked until Monday, October twenty-sixth in which to file his brief in the case. Order granted; he to furnish other side with copy of brief.

Acting Secretary submitted accumulated business, as follows:

Letters of A. V. N. Elting & Son, and their counsel, Bernard & Van Wagener, relative to their complaint against Wallkill Valley Railroad Company. Ordered hearing in matter set down for Monday, October twenty-sixth, at Capitol, Albany.

Letter of J. D. Layng, general manager West Shore Railroad, relative to Kirkville Crossing (complaint of M. W. Leach), highway commissioner. Ordered usual course.

Letter of Rudolph Kraft relative to dangerous crossing on Staten Island railroad and unfit cars on same road. Referred to Commissioner Rickard.

Letter of James D. Bagg relative to automatic pipe company. Ordered filed.

Letter of Butler, Stillman & Hubbard inclosing papers in matter of application of Northern Adirondack Railroad for increase of capital stock. Ordered letter sent them as dictated.

Recess until October twentieth, 10 A. M.

OCTOBER 20, 1891.

Letter of James S. Root, relative to farm crossing, complaint against Lehigh valley railroad. Letter sent P. Wilbur, president Lehigh Valley Railroad and James S. Root, as dictated and on file.

Letter of C. M. Depew, president New York Central and Hudson River Railroad Company, inclosing letter from H. W. Webb, third vice-president, relative to rules governing the transportation of dynamite on that road. Ordered filed.

Letter of John N. Lewis, asking for an opportunity for a conference with a commissioner, relative to Timpson's station. Ordered letter sent him as dictated and on file.

Thomas W. Spencer, inspector, submitted a report of an examination of the Main street crossing in Jamestown of the Erie road. Ordered letter sent M. M. Skiff of complainants, and John King; president of road, with copy report as dictated and on file. Two letters from Thomas W. Spencer, same subject, ordered filed.

Letter of J. W. Boyle, counsel Belt Line railroad of Utica, answering complaint of J. Merriman, as to noise at Schuyler street crossing of said road with Delaware, Lackawanna and Western railroad. Ordered usual course.

Complaint of Milton Travis, highway commissioner (by Mare & Scott, attorneys), town of Deposit, as to obstructed highway in that town near Hales' eddy. Ordered usual course, with letter dictated to John King, president New York, Lake Erie and Western railroad as dictated and on file.

Letter of James F. Mann, Utica and Mohawk street railroad, in the matter of complaint of M. E. Blasier, as to fare on that road. Ordered usual course.

Letter of H. W. De Forest (including papers), as to application of New Jersey and New York Extension railroad for increase of capital stock. Commissioner Rogers submitted a report approving proposed increase of capital in this matter, which was adopted, and ordered issued.

Letter of John S. Wilson, president Poughkeepsie Bridge Company, relative to tie rods on bridge. Ordered carried on file.

Letter of John M. Toucey, general manager New York Central and Hudson River Railroad, inclosing report on accident at Hyde Park October 10, 1891. Ordered letters written Coroner Joseph G. Frost and J. M. Toucey, as dictated and on file. Carry papers on file.

Letter of H. S. Stebbins, in reply to inquiry as to rate of fare on the Bath and Hammondsport road. Ordered filed, and letter as dictated sent to J. R. Kingsley (the inquiry).

Letter of James L. Young, complaining of condition of fences on the Central New England and Western Railroad. Ordered letter sent John Wilson, president of the company as dictated and on file, and letter sent James L. Young, as dictated and on file.

Letter sent J. H. Hempstead, president Riker Avenue and Sanford's Point railroad, relative to cessation of operation during winter months, as dictated and on file.

Letter of Thomas W. Spencer, inspector, relative to defective trestle on Erie road at Jamestown. Letter sent John King, president, as dictated and on file. Letter carried on file.

Letter sent C. M. Depew, president New York Central and Hudson River Railroad, relative to schedule of train No. 57 on the Hudson River division.

Commissioner Rickard submitted report in matter of Montezuma accident on West Shore road, August 6, 1891. Laid over for a week.

Letter of Edward Mitchell, coroner, Tarrytown. Ordered filed.

Board adjourned to October 26th, 2 P. M., Albany.

OCTOBER 26, 1891.

The Board met pursuant to adjournment.

The minutes of last meeting were read, and as corrected were approved.

Mr Van Wagoner appeared on behalf of the complainants in the matter of the complaint of A. V. N. Elting and another against the West Shore Railroad Company, or its lessor, the New York Central and Hudson River Railroad Company, operators of the Wallkill Valley Railway Company. Hon. Hamilton Harris appeared on behalf of the New York Central and Hudson River Railroad Company and the West Shore Railroad Company. Ordered that report of the same be adopted and decision issued.

In the matter of the application of the Northern Adirondack Railroad Company, for the approval of the Board, for an increase of the capital stock of said company from \$450,000 to \$840,000. Mr. Hurd, president of the company, appeared in person, accompanied by Mr. Mynderse, of New York city, of counsel for the company. Matters were laid over for further action until the next regular meeting of the Board.

In the matter of the application of the Riker Avenue and Sandford's Point Railroad Company, for permission to cease the operation of its road during the winter season, (set down for hearing October 19, 1891, and no one appearing) due proof of publication of the notice of hearing having been filed. Order of the Board, granting such permission from January 1, 1892, to April 1, 1892, as dictated, directed to be sent to Messrs. Foster and Foster, attorneys for the Railroad Company, 132 Nassau street, New York city.

The acting Secretary submitted the accumulated business under the rule, as follows:

Communication of James Merriman, of Utica, in matter of the Utica Belt-Line Street Railway Company crossing of Delaware, Lackawanna and Western Railroad Company tracks at Columbia street, Utica. Ordered placed on file.

Communication from John King, New York, Lake Erie and Western Railroad Company, per A. Trumbell, his secretary, relative to iron bridge over Chautauqua Lake outlet, west end of Jamestown yard. Ordered filed, and further ordered that reference to the statement in said letter, as to proposed renewal of such bridge be added to the report made by Inspector Spencer as to the road now on file with the Board.

In matter of complaint of James L. Young v. Central New England and Western Railroad Company, communication of October 21, 1891, from John S. Wilson, president of the company, received. Ordered filed and a copy sent to complainant desiring him in due season to advise Board, whether the company has given the matter the prompt attention promised in Wilson's letter. In the same matter letter from complainant of October 21, 1891 read and ordered filed.

In matter of complaint of J. S. Root, against Buffalo and Geneva Railway Company (now Lehigh Valley Railway Company). Communication from E. P. Wilbur, president of Lehigh Valley Railway Company of October 21, 1891, read and ordered on file. Also communication from complainant with diagram attached, dated October 21, 1891, submitted and ordered that copy of letter and diagram be sent to president Wilbur.

Communication from W. H. Nelson, relative to improper trackage charges made by New York, New Haven and Hartford Railroad Company, submitted and ordered that the acting Secretary advise Nelson, that if he will make specific statements of the ground of complaint against the railroad company and forward same to the Board, it will take such action in the premises as the facts may warrant.

Complaint of Citizens Association, school district No. 8, Blythebourne, Kings county, against the Brooklyn, Bath and West End Railroad Company submitted. Ordered that a copy of complaint be sent with letter as dictated.

Application of Elmira and Horseheads Railway Company to Board to designate date for hearing in matter of a change of its motive power, from horse to electricity upon the balance of its lines not already covered by the permission of the Board heretofore granted to said railway company. Ordered, that hearing be set down for 10 A. M., Thursday November 5, 1891, at Albany, and that president of the company be notified of the same and also that proper notices of hearing be sent to him to be duly advertised in two Elmira dailies until day of hearing, with directions that proof of publication of such notices to be presented on the hearing.

Ordered that acting secretary forward to Dr. Seward Webb, president of the Wagner Palace Car Company, New York city, letter as dictated, as to use of kerosene oil stoves for cooking purposes on cars of such Palace Car Company.

Recess taken until 9.30 A. M., Tuesday, October 27, 1891.

OCTOBER 27, 1891.

Board reconvened.

The Board took up the report of Commissioner Rickard in the matter of the accident on West Shore Railroad near Montezuma, August 6, 1891, submitted at its last meeting, and after discussion, the same was approved and adopted, and it was ordered that such report, together with the decision of the Board, be printed, and thereafter to take the usual course.

Commissioner Rogers submitted the decision of the Board in the matter of the complaint of A. V. N. Elting & Son v. West Shore Railroad Company, operating the Wallkill Valley Railway. Same approved, and ordered that a copy thereof be sent to complainants, and also to Ashbel Green, president of the Wallkill Valley Railway Company.

Board adjourned to 10 A. M. Thursday, November 5, 1891, at Albany.

NOVEMBER 5, 1891.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Two letters from Butler, Stillman & Hubbard, relative to the application of the Northern Adirondack Railroad Company, for an increase of capital stock. Report on the same adopted, and the approval given.

Complaint of A. Jackson, Jr., alleging discrimination against the Long Island Railroad Company, and the Pennsylvania Railroad Company, in refusing to give receipts for baggage delivered in course of business. Ordered usual course.

Letter of John S. Wilson, relative to Poughkeepsie bridge. Ordered filed.

Of M. M. Leech, being reply to the answer of the West Shore Railroad Company. Ordered that the Secretary send a copy of the letter to the West Shore and write that it would seem that Mr. Leech did not approve of the method suggested by the railroad company at the time of the conference spoken of.

Of M. M. Skiff, of Jamestown, relative to the proposed width of drawbridge over navigable stream. Ordered that the letter as dictated, copy of which is on file, be sent.

Of J. L. Young, relative to condition of the fences on the line of the C. N. E. & W. R. R. Ordered that the letter to the company, copy of which is on file, be sent.

Of C. E. Lloyd, making the same complaint. Ordered that he be written that the Board has called upon the company to satisfy it by the sixteenth inst. that it would repair the fences, and if it did not it would report the fact to the Attorney-General.

Of John W. Boyle, (Utica Belt Line Street Railroad Company), relative to the Delaware, Lackawanna and Western crossing. Ordered that the papers in the case be sent to the inspector and he be requested to report by Monday next.

Of H. W. Webb, third vice-president New York Central and Hudson River Railroad Company, relative to the local suburban train service in and out of New York. Ordered that the letter as dictated be sent.

Of John King, president New York, Lake Erie and Western Railroad Company, relative to the crossing at Deposit. Ordered usual course.

Of Austin Corbin, president Long Island Railroad Company, being answer to complaint of Commissioner Rogers. Ordered that the letter as dictated, copy of which is on file, be sent.

Copy of the testimony in the inquest into the Hyde Park accident. Ordered filed.

Col. D. C. Robinson, (Elmira and Horseheads Railroad Company), was heard in the matter of the application of that road for permission to change its motive power on a portion of its line. Ordered that the same be granted and that the report on the same be adopted as the order of the Board.

Ordered that the letter to Mr. John M. Toucey, copy of which is on file, be sent.

The Board adjourned until Monday, November 9th, 1.80 P. M.

NOVEMBER 9, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of W. S. Bissell (Lehigh Valley Railroad Company), relative to the complaint of J. S. Root about a necessary farm crossing at Phelps. Ordered that a copy of the letter be sent to the complainant, and the discrepancy as to the height of the embankment be pointed out, and the fact noted that if the height be only six feet, then an under-crossing would not be feasible.

Letter of the Pullman's Palace Car Company, the New York, Lake Erie and Western Railroad, the Wagner Palace Car Companies, relative to the lighting of cars, and also of J. A. Norton, railroad commissioner of Ohio. Ordered filed.

Of Austin Corbin, president Long Island Railroad Company, relative to the complaint of A. Jackson, Jr. Ordered that a copy of the letter be forwarded to the complainant, together with a request that the complaint be made more specific.

Application of the Catskill Mountain Railroad Company for permission to suspend operations from the twelfth day of December to the 2d day of May, 1892. Ordered that notice of the same be advertised, and the hearing be set down for November 16th.

Letter of Austin Corbin, relative to the complaint of Commissioner Rogers. Ordered that the case be closed.

Of A. V. N. Elting & Son, acknowledging receipt of decision of Board in their complaint. Ordered filed.

Of John S. Wilson, president C. N. E. and W. R. R. Co., relative to the complaint of J. L. Young of Copake. Ordered that it be carried on file until the company was heard from.

Of Kelly and MacRae, asking as to methods to be pursued in applying for a change of motive power. Ordered that the Secretary answer the same.

Report of the inspector as to the crossing of the Utica Belt Line Railroad Company and the Delaware, Lackawanna and Western Railroad Company. Ordered that the Secretary send a copy of the report to the railroad company of Utica, and ask why a crossing-plate, as recommended by the inspector, could not be put down.

Of Arthur More, relative to the complaint of M. J. Cunningham. Ordered that the letter as dictated, copy of which is on file, be sent. Also letter to New York, Lake Erie and Western Railroad Company, as dictated, copy of which is on file, be sent.

Of John King, president New York, Lake Erie and Western Railroad Company, relative to the Jamestown crossing. Ordered that the same be kept on file until the city of Jamestown be heard from.

Of J. L. Young, relative to his complaint against the C. N. E. and W. R. R. Co., as to fences. Ordered kept on file.

Complaint of W. H. Nelson, alleging undue track charges. Ordered usual course.

The Board heard John W. Boyle, of counsel of Utica Belt Line Street Railroad Co, and J. Perry, corporation counsel, Utica, relative to abandonment of a portion of its line. Decision reserved.

The Board adjourned until Monday, November 16th.

NOVEMBER 16, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business, as follows :

Of J. B. Lewis, relative to an automatic coupler. Ordered that the Secretary write saying that the Board has no room in New York where a model could be put on exhibition.

Of A. H. Brown, a complaint as to the improper location of a proposed new station at West Batavia. Ordered usual course.

Of John H. Brennan, relative to a change of motive power on the Yonkers street railroad. Ordered that the same be referred to Commissioner Rogers, and that the Secretary write that the Commissioner could be seen at the Union League Club on Wednesday, the 18th, at 10.30, prompt.

Of Austin Corbin, president Long Island Railroad Company, being answer to the letter of Board as to A. Jackson's complaint. Ordered that a copy of the letter be sent to A. Jackson, Jr.

Of E. A. Mosely, Interstate Commerce Commissioner. Ordered filed.

Of E. A. Handy, chief engineer Lake Shore and Michigan Southern Railroad Company. Ordered that the Secretary write that the blue print has not yet come to hand; that when it is received, if it explains all the details, the Board may be able to give its approval without further investigation; that this, however, seldom happens, and, therefore, if the company is in a hurry it would be well for some representative of the company to be in attendance on the 28rd inst., at 2 P. M., to explain anything that may need explanation.

Of Franklin Couch, relative to the bridging of a navigable stream. Ordered filed.

Of M. M. Skiff, secretary of public works, Jamestown, New York, relative to the Main street crossing. Ordered that hearing on the same be set down for Tuesday, 24th inst., at 10 A. M.

Of the Statute Revision Commission of Kentucky, asking for suggestions as to revision of corporation law. Ordered that the Secretary send a copy of the new corporation laws and the criticism of the Board on the same.

Of J. D. Layng, general manager West Shore Railroad Company, relative to the Kirkville crossing. Ordered that it be sent forward.

The Board heard William Smith, president of Greenbush, and J. Winn, a trustee, relative to the approaches of the Broadway bridge. Ordered that the letter, as dictated, be sent.

The Board heard Mr. George A. Beach, Catskill Mountain Railway Company, in the matter of suspending operations from the 12th day of December, 1891, to the 15th day of May, 1892. Ordered that the same be granted, and that the order, copy of which is on file, be sent.

The Board took a recess until Tuesday, November 17th inst.

NOVEMBER 17, 1891.

The Board took up the question of the suburban train service in and out of New York on the New York Central and Hudson River Railroad. Ordered that the letter as dictated, copy of which is on file, be sent.

Ordered that the letter as dictated to C. M. Depew, president New York Central and Hudson River Railroad Company, relative to the ventilation and lighting of the Fourth avenue tunnel, copy of which is on file, be sent.

Ordered that the letter to E. A. Handy, chief engineer Lake Shore and Michigan Southern Railroad Company, relative to interlocking signal, copy of which is on file, be sent.

Commissioner Rickard submitted a report in the matter of the complaint of C. L. Northrup against the West Shore Railroad Company. Ordered adopted and issued.

Also a report in the matter of the accident occurring at Crook's crossing of the Staten Island Transit Railway on October 6, 1891. Adopted and ordered issued.

Commissioner Rogers submitted a letter from Wm. C. Downing, relative to the use of the Roger carburettor system of car lighting in this State. Ordered that the letter as dictated, copy on file, be sent.

The Board adjourned until Monday, November 23, 1891.

NOVEMBER 23, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business, as follows :

Letter of M. M. Friend, relative to the ownership and other details of a certain extension of Brooklyn City Railroad Company on Second avenue, county of Kings. Referred to the accountant for investigation and report.

Of J. Perry, corporation counsel, city of Utica, asking that time in which to file his brief in matter of Utica against Utica Belt Line Street Railway Company be extended. Ordered extended.

Of W. H. Nelson, relative to his complaint against the New York, New Haven and Hartford Railroad Company. Ordered closed.

Of C. M. Depew, president of the New York Central and Hudson River Railroad Company, relating to ventilating and lighting Fourth avenue tunnel. Ordered referred to Commissioner Rogers.

Of J. M. Toucey, general manager of the New York Central and Hudson River Railroad Company, relative to Hyde Park accident. Ordered referred to Commissioner Rogers.

Of J. J. Maloney, clerk of the common council of the city of Elmira, relative to the approval of a change of motive power for Elmira and Horseheads Railroad Company. Ordered that letter as dictated, copy of which is on file, be sent.

Of C. Cicil, assistant secretary of the Board of Trade, Railway Department, London, England. Secretary ordered to acknowledge the same.

Of M. S. Blair, of the R. H. and L. R. R. Ordered sent to the inspector, with instructions to return the letter with a copy of his answer.

Of A. J. Roux, being complaint of over crowding of the Fourth and Eighth avenue roads, New York city. Ordered usual course.

Of C. C. McCain, auditor of the Interstate Commission. Ordered that letter as dictated, copy of which is on file, be sent.

Of C. D. Flagg, general superintendent of the Wagner Palace Car Company, relative to authority to use cooking stoves used on buffet cars. Ordered that letter as dictated, copy of which is on file, be sent.

Of J. A. Norton, commissioner of railroads and telegraphs, Ohio. Referred to Commissioner Rogers, with other letters, on subject of use of oil on passenger cars.

Of E. A. Handy, chief engineer of the Lake Shore and Michigan Southern Railroad Company, relative to interlocking signal at crossing of above road and Buffalo creek. Order of the Board, copy of which is on file, approving the same, be sent.

Of John King, president New York, Lake Erie and Western Railroad Company, relative to Jamestown Main street crossing. Ordered filed.

Of Frank Loomis, general counsel for the New York Central and Hudson River Railroad Company, relative to the recommendation of the Board, in the matter of suburban train service. Ordered that letter as dictated, copy of which is on file, be sent.

Of C. M. Depew, president New York Central and Hudson River Railroad Company, to the chairman of the Board, relative to the same. Ordered filed.

Of John King, president New York, Lake Erie and Western Railroad Company, and Arthur More, of counsel for complainants in M. J. Cunningham et. al., against the above road, relative to stopping at Underwood crossing. Ordered that letter, as dictated, copy of which is on file, be sent.

Of John S. Wilson, Central New England and Western Railroad Company, relative to complaint of James L. Young. Ordered that W. P. Brennock be sent to inspect the fences.

Commissioner Rogers submitted a report in the matter of an accident occurring near Hyde Park station on the New York Central and Hudson River Railroad, October 10, 1891.

Board adjourned until Tuesday, November 24, at 10 A. M.

NOVEMBER 24, 10 A. M.

The Board heard D. C. Robinson in the matter of the change of motive power of the Elmira and Horseheads Railroad Company. Ordered that letter, as dictated, copy of which is on file, be sent.

The Board heard Mr. Shaw, corporation counsel of Jamestown, M. M. Skiff, secretary board of public works, Alderman Willard of Jamestown, C. W. Buckholtz, engineer, and A. Mordecai, assistant engineer New York, Lake Erie and Western, in matter of Jamestown Main street crossing.

The Board considered the application of the Brooklyn City, the Atlantic Avenue, the Coney Island and Brooklyn, and the Brooklyn City and Newtown Railroad Companies for a change of motive power on their routes. Ordered that letters, as dictated, copies of which are on file, be sent.

Also, letter of O. E. Godeffroy, receiver of Kanona and Prattsburg Railroad Company. Ordered filed and printed, with inspector's report.

Ordered, that letter to T. W. Spencer, inspector, relative to Jamestown Main street crossing, copy of which is on file, be sent.

Commissioner Baker offered the following resolution:

Whereas, This Board has learned of the bereavement of one of its members, Hon. Michael Rickard, in the death of his son;

Resolved, That the sympathy of the Board be extended to Commissioner Rickard and his family in their affliction. Adopted.

The Board adjourned to Monday, November 30th, 1.30 P. M.

NOVEMBER 30, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business, under the rule, as follows:

Of J. N. Partridge, president Brooklyn and Newtown City Railroad Company, in reference to proposed change of motive power. Ordered filed.

Of C. M. Depew, president New York Central and Hudson River Railroad Company, relative to the proposed new depot at West Batavia. Ordered usual course

Of C. R. Lockwood, Jamestown Railroad Company, relative to fares to be charged thereon. Ordered that letter, as dictated, be sent.

Report of the inspector on the matter of the Jamestown Main street crossing. Ordered sent to the complainants.

Letter of E. M. Rossiter, of Fourth Avenue and J. J. O'Donohue, of the Eighth Avenue Railroad Company, of New York city, being answers to the complaint of A. J. Roux. Ordered usual course.

Letter of E. A. Moseley, secretary Interstate Commerce Commission. Ordered filed.

Letter of B. A. Patterson, relative to the Crook's crossing accident on the Staten Island Rapid Transit railroad. Ordered that letter as dictated be sent.

Letter of J. F. Emmons, president Staten Island Rapid Transit Railroad Company, relative to the report of inspector. Ordered attached to inspection report and published with same.

Application of the Oneida Street Railroad Company for permission to suspend operations during the winter months. Hearing set down for December 7th, 1891, and the same ordered advertised.

Report of Inspector on letter written to M. S. Blair, receiver of the Hornells-ville and Western Railroad Company. Ordered filed.

Letter of James L. Young, relative to his complaint against the Central New England and Western Railroad Company. Ordered that letter to James L. Young and J. S. Wilson, president of the road as dictated be sent.

Commissioner Rogers reported verbally on the hearing in the matter of train No. 57 of the New York Suburban service, held in New York on the 28th inst.

The Board took a recess until Tuesday, December 1st, 10 A. M.

DECEMBER 1, 1891.

The Board heard Mr. D. C. Robinson in the matter of his application for a modification of the order made in the application for permission to change the motive power of the Elmira and Horseheads Railroad Company. Modification granted. Ordered that copies of the same be sent to D. C. Robinson, the mayor of Elmira, and the clerk of the Common Council of Elmira.

The Board considered the communication of J. L. Young and the drawing accompanying the same. Ordered filed.

Also the complaint of E. E. French against the Utica Belt Line Street railroad. Ordered that letter as dictated be sent.

Also letter of W. H. Ritter, relative to the Otis Elevating Railway Company. Ordered that letter as dictated be sent.

Also complaint of W. S. Carson against the New York Central and Hudson River Railroad Company. Ordered usual course.

Also the letter of E. A. Moseley, Secretary Inter-State Commerce Commission, relative to forms of accident reports. Ordered sent.

Ordered that the letters of M. S. Blair and George D. Chapman, relative to the condition of the Lackawanna and Pittsburgh Railroad Company to be sent with copies of the inspection report of the Inspector, and ordered that they show cause on December 8th, 10 A. M., why recommendation that passenger trains should not run over the Stony Brook viaduct, until put in safe condition, should not be made.

The Board adjourned until Monday, December 7th, 1891.

DECEMBER 7, 1891.

The Board met pursuant to adjournment.

The minutes of last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of C. D. Flagg, general manager Wagner Palace Car Company, relative to the use of oil stoves on palace cars. Ordered that letter as dictated be sent.

Letter of E. E. French, of Utica. Ordered that Secretary write that if he does not see fit to send in a specification of his complaint of what he desires the complaint will be dismissed.

Letter of Arthur More, of counsel for M. J. Cunningham et al. Ordered that the Secretary send the letter to the Inspector and he be written as to whether its statement modifies his views expressed in his report.

Letter of Jewell & Stoneman, being a complaint against the Western New York and Pennsylvania Railroad Company of excessive freight rates. Ordered usual course.

Letter of John S. Wilson. Ordered filed.

Letter of John Greene, being complaint against the Delaware, Lackawanna and Western Railroad Company. Ordered usual course.

Letter of George W. Smith, relative to a coupler device. Ordered that letter as dictated be sent.

Letter of Edward Redmond, relative to railroad appliances. Ordered that letter as dictated be sent.

Letter of J. L. Young, relative to fences. Ordered that letter as dictated be sent.

Letter of Railroad Torpedo Machine Company. Ordered filed.

Letter of W. H. Ritter, relative to the Otis Elevating Railroad Company. Ordered that letter as dictated be sent.

J. L. Wood was heard by the Board in the matter of lighting railroad tunnels.

Commissioner Rogers submitted a draft of the annual report of the Board. Adopted, and ordered approved and printed.

Commissioner Baker submitted a report in the matter of the Onida Street Railroad Company's application for permission to suspend operations during the winter months. Adopted, and ordered issued.

The Board adjourned until Tuesday at 10 A. M.

DECEMBER 8—10 A. M.

The Board heard M. S. Blair, receiver of the Hornellsville, Lackawanna and Pittsburg Railroad Company, in the order to show cause why the road should not be prohibited from running on certain portions of it.

Ordered, the Board will suspend action in the matter until next Monday, December 14, 1891. What the action of the Board will be then, will depend on what Mr. Stowell reports, in other words, if the report of Mr. Spencer is substantiated, that the viaduct is in immediate dangerous condition, the Board will recommend the discontinuance of trains; if there is no immediate danger, the Board will give the road an opportunity to procure money to put the viaduct in safe condition.

The Board heard Mr. H. L. Sprague in an application for the consent of the Board to the reincorporation of the Herkimer, Newport and Poland Railroad Company. Consent granted.

The Secretary submitted the reply of A. J. Roux to the answer of the Fourth and Eighth Avenue roads to his complaint. Ordered filed.

Commissioner Rickard submitted a report in the matter of the accident occurring west of Adrian, on the New York, Lake Erie and Western Railroad. Adopted and ordered issued.

Reply of A. H. Brown, to the answer of the New York Central and Hudson River Railroad Company to his complaint. Ordered that the Secretary write that the Board deems that it should have a petition as representing the sentiment of the community.

Answer of the New York Central and Hudson River Railroad Company to the complaint of W. S. Carson. Ordered usual course.

The Board adjourned until Monday, December 14, 1891.

DECEMBER 14, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Application of the Yonkers Railroad Company for permission to change its motive power. The Board heard Mr. John F. Brennan, of counsel, and Mr. Montague for the company, and set down the date of December twenty-second as a date of hearing, at the Chambers of Commerce, at 11 A. M. Ordered the same to be advertised.

Petition of residents of the town of York, asking that the Delaware, Lackawanna and Western Railroad Company may be compelled to resume stops at three stations recently discontinued. Ordered usual course.

Ordered that Secretary write to the Boston and Albany Railroad Company, directing attention to the failure of the company to make the answer agreed to be made in writing to the complaint of the trustees of Greenbush.

Letter of Wm. H. Morris, president Pottstown Iron Works, relative to a supposed order of the Board in the matter of the quality of steel. Ordered that letter as dictated be sent.

Complaint of Mrs. M. A. Robinson against the New York and Massachusetts Railroad Company. Ordered usual course.

Letter of C. R. Lockwood, relative to the Jamestown Main street crossing. Ordered filed.

Report of the Inspector as to the Underwood crossing. Ordered sent to the company with the letter as dictated, together with the letter of Mr. More, counsel.

Complaint of E. E. French, relative to impassible condition of road in front of her hotel, made so by the Utica Belt-Line road. Usual course.

Further complaint of A. Jackson, Jr., against the Long Island Railroad Company. Ordered the letter be sent to company.

Answer to the complaint of Jewell and Stoneman by the Western New York and Pennsylvania Railroad Company. Ordered usual course.

Letter of Edmund Redmond, relative to railroad appliances. Ordered filed.

Letter of J. L. Young. Ordered that letter as dictated be sent.

Papers relative to the Thurston coupler. Ordered filed.

Application of the Brooklyn Elevated Railroad Company to be permitted to abandon a portion of its route. Ordered that hearing on the same be set down for December 22d, 12 M., at the chamber of commerce, and the same be advertised.

Letter of C. D. Flagg, Wagner Palace Car Company. Ordered filed.

Letter of D. A. Moran, relative to doors on palace cars. Ordered filed.

Letter of Randolph Kraft, relative to a crossing on the Staten Island Railroad. Ordered that letter as dictated be sent.

The bridge engineer submitted a report made to M. S. Blair as to the condition of the Stony Brook viaduct, on the Hornellsville, Rochester and Pittsburg Railroad. Ordered that letter as dictated be sent.

Ordered that letter as dictated to James C. Fargo, American Express Company, be sent.

Ordered that letter to C. M. Depew, as dictated, be sent.

Board took a recess until December 15th, 10 A. M.

TUESDAY, 15 — 10 A. M.

The Board heard Mr. Deal, Wagner Palace Car Company, in the matter of oil urns used on palace cars for cooking purposes. Ordered to appear 28th instant with urn.

The Board adjourned to meet in New York city, chamber of commerce, at 10 A. M., 22d instant.

DECEMBER 22, 1891.

The Board met at the rooms of the chamber of commerce in the city of New York pursuant to adjournment.

The minutes were read and approved.

The Board heard Mr. John F. Brennan and Mr. Montague, Yonkers Street Railway Company, in its application for a change of motive power.

Also, Mr. E. Lauterback, for the Brooklyn Elevated Railroad Company, for permission to abandon a portion of its route. Ordered granted.

Also, Mr. H. M. Thompson, Brooklyn City Railroad; Mr. John N. Patridge, Brooklyn and Newtown Railroad Company; Mr. W. N. Dykman, Gen. H. W. Slocum and H. W. Slocum, Jr., for the Coney Island and Brooklyn Railroad Company, in an application for a change of motive power. Hearing set down for January 6, 1892.

The Secretary submitted the accumulated business under the rule as follows:

Answer of New York and Massachusetts Railway Company to the complaint of Mrs. M. A. Robinson. Ordered usual course.

Letter of J. C. Fargo (American Express Company). Ordered that letter as dictated be sent.

Letter of C. K. Corliss, relative to automatic coupler. Ordered that letter as dictated be sent.

Letter of acting secretary Bliss, president Boston and Albany Railroad Company, as to Greenbush bridge matter. Ordered filed.

Letter of Benjamin Patterson as to headway of trains on Staten Island Rapid Transit Railway. Ordered carried on file.

Letter of Rudolph Kraft as to Cooles Crossing, Tottenville. Ordered that letter as dictated, to G. S. Barnes, president of village, be sent.

Petition of residents of West Batavia as to change of site of station. Ordered that petition and copy of letter of Mr. Brown be sent to company, and that the inspector be instructed to report to the Board as to desirability of change.

Letter of John King, president New York, Lake Erie and Western, relative to Underwood's Crossing. Carried on file.

Letter of Theo. M. Ely, general superintendent motive power, Pennsylvania Railroad as to form of coupler. Ordered that letter as dictated be sent.

Letter of J. Horace Harding relative to authority for charging fares for less than mile. Ordered that letter as dictated be sent.

Letter of Oscar M. Rogers, M. D., as to rules made by Northern Railroad of New Jersey, to govern commutation tickets. Ordered that letter as dictated be sent.

Letter of Wm. S. Carson, being his reply to answer of N. Y. C. and H. R. R. Company to his complaint. Ordered referred to accountant for report.

Certificate of the Otis Elevating Railway as to increase of capital stock. Ordered filed.

Letter of F. S. Couch relative to bridging of waterway. Ordered that Secretary write that the Board has no communication other than its letter of Nov. 10, 1891, to make.

The Board adjourned until Monday, Dec. 28, 1891, at Albany.

DECEMBER 28, 1891.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business as follows:

Brief of the Yonkers Street Railroad in the matter of its application for a change of motive power. Ordered change approved, and that decision to that effect be issued.

Certificate of the resolution of the board of supervisors of Orange county relative to condition of waiting-room at Newburgh Junction. Ordered usual course.

Reply of W. N. Y. and Penn. R. R. Company to Jewell and Stoneman. Ordered referred to Commissioner Rogers.

Letter of Caleb F. Brown, relative to milk rates. Ordered that letter as dictated be sent.

Letter of John W. Boyle, Utica Belt Line Street Railway Company, relative to the complaint of E. E. French. Ordered that the papers be sent to Mr. Spencer, and he be asked to report next week.

Letter of C. K. Corliss, relative to signal. Ordered that letter as dictated be sent.

Report of the inspector, in the matter of the petition of residents of West Batavia. Ordered that a copy of the same be sent to the company, together with letter as dictated.

Letter of Pottstown Iron Company. Ordered that letter as dictated be sent.

Letter of H. E. Ackerly, relative to block signal system. Ordered filed.

Letter of Robert G. Shaw (Jamestown), relative to Main street crossing. Ordered referred to Commissioner Rickard, and letter as dictated be sent.

The letter of President King (New York, Lake Erie and Western Railroad Company), relative to the Amderwood crossing. Ordered that letter to the company and the counsel of complainants be sent.

Letter of the Kanona and Prattsburgh Railroad Company, relative to the annual report. Ordered referred to the accountant.

Ordered that letter in the matter of the complaint of Wm. S. Carson, against the New York Central and Hudson River Railroad Company, as dictated, be sent.

Board took a recess until Tuesday, December 29th, 1891, 10 A. M.

DECEMBER 29, 1891.

The Board considered a letter from Benjamin Norton, second vice-president Long Island Railroad Company, relative to complaint of A. Jackson, Jr.

Ordered that letter, as dictated, being determination of Board in the matter, be sent, and copy of the same be sent to Mr. Jackson.

Letter of Rev. J. S. Root and Reed and Shutt, relative to complaint of Mr. Root against the Lehigh Valley Railroad Company. Ordered that letter to road as dictated be sent, and copy of same be sent to Mr. Root.

Ordered that letter to August Stein, receiver Tonawanda Valley and Cuba Railroad, being ordered to show cause, Tuesday, January 4th, 10 A. M., 1891, be sent.

The Board adjourned.

JANUARY 4, 1892.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business, as follows:

Matter of the deferred hearing of the Tonawanda and Cuba Railroad Company. Ordered that hearing be set down for Tuesday, January 12th, at 10 A. M.

Letter of C. M. Depew, New York Central and Hudson River Railroad Company, relative to the purpose of the company in the matter of blocking the road. Ordered filed.

Letter of Stephen H. Infield, a complaint of the narrow condition of the crossing a mile north of Comstocks, on the Delaware and Hudson Canal Company. Ordered usual course.

Letter of John B. Elgin, relative to a hearing on an accident on the New York Central and Hudson River Railroad.

Letter of John Lyon of Rockville Centre, complaining of the unprotected condition of crossings on the Long Island Railroad. Ordered usual course, and that letter as dictated be sent.

Letter of E. Parker, being complaint of discrimination in freight on part of the New York, Lake Erie and Western Railroad Company.

Letter of James E. McCall, relative to the Hastings accident. Ordered filed.

Letter of Wagner Palace Car Company, relative to use of urns for cooking purposes. Ordered that approval of their use be made and the same be transmitted.

The Board heard Mr. A. B. Paine in the matter of an application for approval of an interlocking signal system at the juncture of the Dutchess County railroad, with the Newburgh, Dutchess and Connecticut Railroad. Ordered approved and that approval be issued.

The Board took a recess until 10 A. M. Tuesday, January 5th, 1892.

JANUARY 5, 1892—10 A. M.

The Board took up the Sing Sing and Hastings accidents of December 24, 1891. General Superintendent Voorhees, New York Central and Hudson River railroad appeared and was heard.

The Board also examined M. J. Murphy, engineer, and James J. Ryan, conductor of the freight train breaking in two near Sing Sing.

The Board adjourned to meet in Brooklyn, Wednesday, January 6th, 1892, 10 A. M., in the matter of the application of Brooklyn roads for a change of motive power.

JANUARY 6, 1892—11 A. M.

The Board sat in hearing, at the chamber of the common council, Brooklyn, in the matter of the application of Brooklyn street railroad companies for a change of motive power.

Daniel S. Lewis and H. M. Thompson (Brooklyn city), John N. Patridge (Brooklyn city and Newtown), W. N. Dykman and General H. W. Slocum (Coney Island and Brooklyn), and numerous citizens in behalf of applicants, and three citizens in opposition.

The Board adjourned.

JANUARY 11, 1892.

The Board met pursuant to adjournment.

The Board approved the minutes of last meeting.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of E. J. Grant. Ordered that the Secretary write that at the suggestion of the Board of Railroad Commissioners it is understood that the Revision Commission will insert the words: "Within the limits of any incorporated city and village."

Letter of J. D. Beckwith relative to practice before the Board. Ordered that letter as dictated be sent.

Letter of Pullman Palace Car Company relative to Board's approval of cooking stoves on palace cars. Ordered that letter as dictated be sent.

Letter of Jewell and Stoneman, with accompanying affidavit of Geo. A. Stoneman. Ordered referred to Commissioner Rogers.

Letter of A. Jackson, Jr. Ordered that the Long Island Railroad Company be summoned to show cause before the Board on Monday, January 18th inst., 2 P. M.

Letter of C. R. Lockwood, relative to construction of Section 11, Chapter 565, Laws of 1890. Ordered that letter as dictated be sent.

Letter of Wm. R. McLaughlin relative to his withdrawal of consents to the electric system in Brooklyn. Ordered referred to the Secretary to examine and if the consent is filed in the office, to send letter as dictated.

Letter of M. S. Blair, receiver R. H. and P. railroad. Ordered filed with inspection papers.

Letter of W. S. Bissell, J. S. Root, Reed and Shult and report of the inspector relative to complaint of J. S. Root against Lehigh Valley Railroad Company. Ordered the case be suspended as requested by the complainant, and the parties in interest be so informed.

Report of the inspector in the matter of the complaint of E. E. French. Ordered that a copy of the report be sent to the road, and that it be summoned to show cause on January 18th inst., 2 P. M.

Letter of C. D. Flagg (Wagner Palace Car Company) relative to the Board's approval of oil urns. Ordered filed.

Letter of John McMahon. Ordered that the Secretary write him to make his complaint more specific and to indicate the article shipped.

Letter of John King, president New York, Lake Erie and Western Railroad Company relative to the complaint of E. V. Parker. Ordered usual course.

Letter of W. H. Beard asking as to the Board's jurisdiction in the matter of the removal of a station. Ordered that the Secretary write that the Board has jurisdiction, and will take action on a complaint being submitted.

Letter of F. F. Chambers relative to the complaint of the town of York. Ordered carried on file.

Ordered that the Secretary write in answer to the letter of J. H. McC. Cartney, received by the Chairman of the Board, as dictated.

Commissioner Rogers submitted a report in the matter of the application of the Coney Island and Brooklyn Railroad Company for a change of motive power, granting the same in both instances. Ordered adopted, printed and issued.

The Board took a recess until Tuesday, January 12th, 10 A. M.

JANUARY 12, 1892.

The Board met.

Commissioner Rogers submitted a report in the matter of the Brooklyn City and Newtown Railroad Company. Ordered adopted and issued.

The Board heard Mr. August Stein, receiver of the Tonawanda Valley and Cuba Railroad Company, in the matter of the condition of the road.

Order as dictated made and filed with the papers.

Commissioner Rogers submitted a report in the matter of the complaint of Jewell and Stoneman against the Western New York and Pennsylvania Railroad Company. Ordered adopted and issued.

The Board adjourned.

JANUARY 18, 1892.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business under the rule as follows:

Letter of John W. Boyle, relative to the E. E. French complaint. Ordered case closed and copy of letter be sent to E. E. French.

Letter of Benjamin Norton, vice-president Long Island Railroad Company, being answer to complaint of Mr. Lyon, of Rockwell Centre. Ordered usual course.

Letter of board of supervisors of Orange county, being reply to the answer of the New York, Lake Erie and Western Railroad Company. Referred to Commissioner Baker.

Letter of H. G. Young, vice-president and general manager Delaware and Hudson Canal Company, relative to the complaint of Stephen H. Infield. Ordered usual course.

Letter of J. H. McCartney, relative to his pneumatic system. Ordered that that the secretary write as dictated.

Letter of E. V. Parker, being reply to the answer of the New York, Lake Erie and Western Railroad Company. Ordered sent to the company.

Letter of Alex. Cameron, relative to trolley system in the city of Brooklyn. Ordered that copies of the decisions already made be sent him.

Letter of John McMahon. Complaint against the Fitchburg Railroad Company. Ordered usual course.

Application of the Otis Elevating Railway Company for an increase of capital stock. Ordered that the parties in interest be summoned to appear on Wednesday.

The Board heard William J. Kelly on behalf of the Long Island Railroad Company, in the matter of the complaint of A. Jackson, Jr.

Also, H. M. Thompson on behalf of the Brooklyn City Railroad Company, in its application for a change of motive power, and J. R. Schaefer and J. R. Karlisher in opposition thereto.

The Board took a recess until Tuesday, January 19th, 10 A. M.

JANUARY 19—10 A. M.

The Board took up the matter of the application of the Brooklyn City Railroad Company, and laid the matter over one week.

Also the matter of A. Jackson against the Long Island Railroad Company. Referred to the Attorney-General.

C. H. Kimball, superintendent, Milton H. Fowler, counsel, Newburgh, Dutchess and Connecticut Railroad Company and others appeared in the matter of the inter-locking signal at the crossing of the Dutchess County Railroad, and were heard. Ordered that the order of January 4th shall stand as the order of the Board.

The Board adjourned until Monday, January 25th, at 2 P. M.

JANUARY 25, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows: Application of the Sixth Avenue Railroad Company of New York city, for permission to change its motive power from horse to cable power. Ordered that letter as dictated be sent.

Letter of C. M. Depew, president New York Central and Hudson River Railroad Company, relative to the complaint of the people of West Batavia. Ordered sent to the complainants.

Letter of Benjamin Norton, second vice-president Long Island Railroad Company, relative to the complaint of John Lyon of Rockwell Centre. Ordered sent to the complainant.

Letter of Campbell & Thayer Company relative to the trolley system on the Brooklyn City and Newton railroad. Ordered filed.

Letter of Staats E. Mead, a complaint against the Lake Mahopac branch of the New York and Harlem branch of the New York Central and Hudson River Railroad Company. Ordered usual course.

Letter of William J. Penfield against the New York Central and Hudson River Railroad Company as to the Washingtonville station. Ordered usual course.

Petition of the village of Little Falls as to the crossings of the New York York Central and Hudson River railroad in that village. Ordered usual course.

Ordered, that the Delaware, Lackawanna and Western Railroad Company be written to and told that the answer to the complaint of the town of York had not been answered yet.

The Board took up the application of the Brooklyn City Railroad Company for a change of motive power and laid the matter over for subsequent action.

The Board heard Col. John N. Partridge, president Brooklyn City and Newtown Railroad Company, in the matter of the change of motive power. Hearing set down for Wednesday, February 8d, 1892, at Brooklyn.

The Board took a recess until Tuesday January 26th, 1892.

JANUARY 26, 1892.

The Board took up the matter of the change of motive power of the Brooklyn City Railroad Company. Commissioner Rogers submitted a report granting the same. Ordered adopted as the order of the Board, and printed and issued.

Ordered that the certificates of the Otis Elevating Railway Company, relating to the increase of capital stock, granted the preceding week, be signed in approval.

The Board heard Mr. Norton in reference to the statute relating to increase of capital stock.

The Board examined the McCartney system of pneumatic block signaling by models.

Also the letter of the Fontaine Crossing Company. Ordered filed with improvements.

Also the letter of John Lyon, as to his complaint against the Long Island Railroad Company. Ordered sent to the company.

The Board adjourned to Monday, February 1, 1892.

FEBRUARY 1, 1892.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the unfinished business, as follows:

Application of the Herkimer, Newport and Poland Railroad Company for an increase of capital stock. Granted and approval ordered.

Letter of Burrill, Zabuskie and Burrill, relative to the application of the Sixth Avenue Railroad Company for a change of motive power. Ordered that letter as dictated be sent.

Letter of D. Whitney, as to the elevation of over crossings of railroads. Ordered that letter as dictated be sent.

Letter of John King, president New York, Lake Erie and Western Railroad Company, being answer to complaint of E. V. Parker. Ordered usual course.

Letter of Henry Walker, relative to the complaint of the Town of York against the Delaware, Lackawanna and Western Railroad Company. Ordered carried on file.

Letter of H. S. Marcy, president Fitchburg Railroad Company, relative to the complaint of John McMahon. Ordered usual course.

Letter of J. S. Palmer, relative to Campbell's patent foot guard. Ordered filed with improvements.

Report of the accountant as to the matter of the Tottenville complaint. Ordered that copy of same be sent to the president of the village of Tottenville.

Letter of J. M. Toucey, general manager of New York Central and Hudson River Railroad Company, forwarded by Commissioner Rogers to the Board. Ordered filed.

Commissioner Rickard submitted a report in the matter of the accident occurring on the Central at Tarrytown, December 1, 1891. Adopted and ordered issued.

Also, a report on the accident occurring at Mott Haven, December 2d, 1891. Adopted and ordered issued.

The Board adjourned to meet in Brooklyn at the chamber of the common council at 11 o'clock on the 3d inst.

FEBRUARY 3, 1892.

The Board met pursuant to adjournment.

The Board met at the common council chamber and gave a hearing on the application of the Brooklyn City and Newtown Railroad Company for a change of motive power on its Franklin avenue route. Colonel Patridge, president of company, appeared for the company, and Geo. M. Stone and others against the application. The hearing was adjourned to Albany at the rooms of the Board in the Capitol, February 23d, at 2 P. M.

FEBRUARY 7, 1892.

The Board met pursuant to adjournment.

The minutes of last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of E. V. Parker, relative to his complaint against the New York, Lake Erie and Western Railroad Company. Ordered usual course.

Complaint of Ira F. Sanderson. Ordered usual course.

Ordered that the hearing upon the application of the Atlantic Avenue Railroad Company be set down for the 24th inst., at the rooms of the common council, Brooklyn, at 11 A. M., and that the same be advertised.

Letter of Frank Loomis, counsel of the New York Central and Hudson River Railroad Company, relative to the complaint of Staats E. Mead. Ordered sent complainant.

Letter of Benjamin Norton, vice-president Long Island Railroad Company, relative to the complaint of John Lyon. Ordered sent to the complainant.

Letter of Robert Shaw, of Jamestown. Ordered that the Board, or a member, visit Jamestown one day of the week of the 22d, and notify the parties by wire.

Letter of F. C. Eddy, Syracuse Consolidated Railroad Company, relative to quarterly reports. Ordered that the time be extended for sixty days, but that the report must be promptly filed.

Letter of Frank M. Baker, Bradford, Eldred and Cuba Railroad. Ordered that Secretary write as dictated.

Letter W. F. Halstead, general manager Delaware, Lackawanna and Western Railroad Company, relative to the complaint of the town of York. Ordered usual course.

Letter of Frank Loomis, relative to the complaint of the village of Little Falls. Time ordered extended in which to answer to the 15th inst.

The Board adjourned until February 12th, at 10 A. M.

FEBRUARY 12, 1892.

The Board met at 10 o'clock and heard Geo. J. Magee, president, and Daniel Beach, second vice-president, Corning, Cowanesque and Antrim Railroad, relative to an increase of capital stock of such road. The method of procedure in such cases was explained by the Board, and the matter was adjourned until the necessary proceedings could be taken and papers prepared, as required by statute.

FEBRUARY 15, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Samuel G. De Coursey, president Western New York and Pennsylvania Railroad Company, relative to the complaint of Ira F. Sanderson. Ordered usual course.

E. B. Whilten, relative to the Ithaca, Auburn and Western Railroad Company. Ordered that letter as dictated be sent.

Letter of Maria A. Ireland, a protest against trolley system in Brooklyn. Ordered carried on file.

Letter of C. M. Depew, president New York Central and Hudson River Railroad Company, relative to the complaint of Wm. J. Penfield. Ordered usual course.

Letter of John McMahon, relative to his complaint against the Fitchburgh Railroad Company. Ordered sent to the company with letter as dictated.

Letter of Henry Walker, supervisor, relative to the complaint of the town of York. Ordered referred to the inspector, with letter as dictated.

The Board adjourned until Tuesday, February 28d, 1892.

FEBRUARY 28, 1892.

The Board met pursuant to adjournment.

Commissioner Beardsley presented his commission from the Governor, certifying to his appointment, and confirmation by the Senate to succeed William E. Rogers, term expired, and announced that he had taken the prescribed constitutional oath of office.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of Ira F. Sanderson, relative to his complaint against the Western New York and Pennsylvania Railroad Company. Ordered that letter as dictated be sent.

Letter of Horace B. Davis, relative to an automatic device. Ordered that letter as dictated be sent.

Protest of Maria A. Ireland against granting the Brooklyn City and Newtown Railroad Company the right to change its motive power. Ordered filed.

Board heard Mr. Porter Norton, of the Croestown Street Railway Company, in an application for an increase of capital stock. Ordered approved.

Commissioner Rickard submitted a report in the matter of the accident occurring near Canastota on the N. Y. C. and H. R. R. R. on November 22, 1891. Ordered adopted and issued.

Also a report on the accident occurring on the N. Y. C. and H. R. R. R. on December 15, 1891, at Fishkill Landing. Ordered adopted and issued.

The Board adjourned to meet in Brooklyn, 24th inst., at 11 A. M.

FEBRUARY 24, 1892.

The Board heard the Atlantic Avenue Railroad Company in its application for a change of motive power.

Adjourned to enable the company to correct certain irregularities in their papers.

Adjourned to February 29th inst., at 10 A. M.

FEBRUARY 29, 1892.

The Board met pursuant to adjournment.

The minutes of last meeting were read and approved.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of Hover Milling Company relative to alleged exorbitant rates charged by the Rome, W. and O. R. R. Company. Ordered that Secretary write that the Board has jurisdiction and that it will consider his complaint if it is made specific.

Letter of Nathaniel A. Vous relative to his complaint against the New York Central and Hudson River Railroad Company, announcing its settlement by the company. Ordered closed.

Letter of A. Tredwell relative to the application of the Brooklyn City and Newtown Railroad Company for a change of motive power. Ordered filed.

Letter of New York, Lake Erie and Western Railroad Company relative to the complaint of E. V. Parker. Referred to Commissioner Beardsley.

The Board adjourned.

MARCH 2, 1892.

The Board went into consideration of the bill, Assembly bill No. 668, referred to the Board by the Governor. After consideration it was ordered returned, with the report as dictated.

The Board adjourned until Monday, March 7th, 10 A. M.

MARCH 7, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Mr. A. Tredwell and Colonel John N. Partridge and others in the matter of the application of the Brooklyn City and Newtown Railroad Company for a change of motive power. Order made, copy of which is on file, and hearing set down for March 21st, 1892.

The Secretary submitted the accumulated business, under the rule, as follows:

Complaints of the residents of Attica against New York, Lake Erie and Western Railroad Company. Ordered usual course.

Letter of Belden Wilcox et al. against Western New York and Pennsylvania Railroad Company. Ordered usual course.

Letter of H. S. Marcy, president Fitchburg Railroad Company, relative to the McMahon complaint. Ordered filed.

Letter of residents of Webster against the Rome, Watertown and Ogdensburg Railroad Company. Ordered usual course.

Letter of Edmund Redmond, relative to signal device. Referred to Secretary.

Letter of Willard S. Burns for the Buffalo Lumber Exchange, and John W. Robinson, Tonawanda Exchange. Ordered usual course.

Board adjourned until March 14th, 10 A. M.

MARCH 14, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business, under the rule, as follows:

Application of the Niagara Falls and Suspension Bridge Railroad Company for a change of motive power. Ordered that the Secretary write as to the procedure required by the Board, and set hearing down for Tuesday, March 22d, 1892.

Letter of George W. Sanford in reference to passenger rates. Ordered that the Secretary write saying Board cannot answer suppositious questions, and that if he has a complaint to make, and will state it specifically, the Board will take proper action.

Letter of Alanson Tredwell, relative to proceedings in matter of change of motive power applied for by the Brooklyn City and Newtown Railroad Company. Ordered Secretary write that he is mistaken in understanding that Board has directed the company to file the consents, but that it was agreed that a statement of the consents would answer all the purposes.

Letter of S. W. Rosendale, Attorney-General, announcing that the matter of A. Jackson, Jr., had been settled.

Ordered that Secretary write Hon. C. M. Depew as to progress made in the building of the experimental section of the Fourth Avenue tunnel.

Letter of S. W. Rosendale, relative to certain papers, 'certified copies of which had been ordered. Ordered that Mr. C. J. G. Hall be written that the papers could not be furnished under the ruling of the Attorney-General.

Letter of A. H. Palmer, relative to the York complaint. Ordered that the Secretary write the inspector relative to same.

Letter of Charles Williams, relative to the failure of the Rochester and Pittsburg Railroad Company to maintain its fences. Ordered usual course.

Commissioner Rickard moved that Commissioner Samuel A. Beardsley be made chairman of the Board.

The question was put and carried. Commissioners Rickard and Baker voting in the affirmative, and Commissioner Beardsley not voting.

Commissioner Beardsley, in assuming the chair, returned his thanks for the honor conferred, and asked the indulgence and assistance of the Board in the discharge of his duties as presiding officer.

Commissioner Baker submitted a report in the matter of the application of the Atlantic Avenue Railroad Company, for permission to change its motive power, granting the same. Adopted and ordered issued.

Ordered that Assembly Bill No. 563, referred to the Board by the Railroad Committee of the Assembly, be returned, with the letter dictated by the Board.

The Board adjourned until Monday, March 21st. 2 P. M.

MARCH 21st 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rules, as follows: Letter of E. B. Thomas, vice-president New York, Lake Erie and Western Railroad Company, relative to complaint of Attica. Ordered usual course.

Application of the Coney Island and Brooklyn Railroad Company for a change of motive power on Smith street route. Ordered hearing set down for Tuesday, March 29th, 1892, at 11 A. M., and the same be advertised.

Letter of Alanson Tredwell, relative to Brooklyn City and Newtown Railroad Company for change of motive power. Ordered filed.

Assembly Bill No. 563 returned to Board for hearing thereupon. Ordered that hearing be set down for April 5th, 1892, at office of Board at 10 A. M., and that parties in interest be notified.

Briefs in the matter of the application for change of motive power by Brooklyn City and Newtown Railroad Company. Ordered referred to Commissioner Baker, with papers in case to write opinion.

The Board adjourned to Tuesday, March 22d, 1892.

MARCH 22, 1892.

The Board met pursuant to adjournment. All present.

Commissioner Baker submitted a report in the matter of the application of the Brooklyn City and Newtown Railroad Company for a change of motive power, granting the same. Adopted and ordered issued.

The Board heard Eugene Cary in the matter of the application of the Niagara Falls and Suspension Bridge Railway Company for a change of motive power, and after hearing, granted the same, adopting the report submitted and ordering it to be issued.

Ordered that the Secretary write as to the reason of the failure of the Boston and Albany to answer on Monday, 21st, 1892.

The Board adjourned until Monday, 28th inst., 10 A. M.

MARCH 28, 1892

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of Samuel Hoar, general counsel Boston and Albany Railroad Company. Ordered that the Boston and Albany Railroad Company be cited to

show cause Monday, April 4, 1892, 2 P. M., why its failure to conform to the recommendations of the Board in the matter of the Greenbush bridge should not be presented to the Attorney-General for his action.

Letter of Reed and Shutt, relative to the complaint of James S. Root against the Lehigh Valley Railroad Company, with accompanying brief. Ordered that report, with recommendations as adopted, be issued.

Letter of C. M. Depew, president New York Central and Hudson River Railroad Company, with accompanying letter of H. W. Webb, third vice-president New York Central and Hudson River Railroad Company, relative to the ventilation of the Fourth avenue tunnel. Ordered filed.

Letter of Wm. A. Baldwin, vice-president Buffalo, Rochester and Pittsburg Railroad Company, being answer to complaint of Charles Williams. Ordered usual course.

Of Vollkammer, Bloomingdale & Company, relative to rates against Lehigh Valley. Ordered usual course.

Report submitted in the matter of E. V. Palmer against the New York, Lake Erie and Western Railroad Company. Ordered adopted and issued.

Board adjourned to Brooklyn common council chamber, March 29, 11 A. M.

MARCH 29, 11 A. M.

At Brooklyn:

Board heard H. W. Slocum, Jr., and W. H. Dykman, of counsel in application of Coney Island and Brooklyn Railroad Company for change of motive power. No opposition. Application ordered granted.

Board adjourned until April 4, 1892, 10 A. M.

APRIL 4, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard W. J. Heacock, L. Caten and W. S. Northrup in the matter of the application of the Johnstown, Gloversville and Kingsboro Railroad Company for a change of motive power. Hearing set down for April 11th, 10 A. M., and the same ordered advertised.

The secretary submitted the accumulated business under the rule, as follows:

Reply of the village of Ithaca to the answer of the company (New York, Lake Erie and Western Railroad Company) to the complaint. Ordered carried on file.

Letter of R. M. Shaw (complaint of city of Jamestown against the New York, Lake Erie and Western Railroad Company). Ordered carried on file.

Application of the Atlantic Avenue Railroad Company for a change of motive power upon a portion of its route. Ordered hearing set down for April 12th, 11 A. M., Brooklyn common council chamber, and same ordered advertised.

Complaint of R. A. Husted against New York and Massachusetts Railroad Company. Allegation of setting fire by railroad sparks. Ordered usual course.

Answer of New York Central and Hudson River Railroad Company to the complaint of the village of Little Falls. Ordered usual course.

Answer of New York Central and Hudson River Railroad Company to the complaint of John Barr and others of Webster. Ordered usual course.

Letter of Charles Williams, relative to the complaint against Buffalo, Rochester and Pittsburg Railroad Company. Ordered filed.

Recess taken.

The Board heard Hon. Hamilton Harris, as counsel for the New York Central and Hudson River Railroad Company and Boston and Albany Railroad Company, under a citation to show cause why the two companies should not be reported to the Attorney-General, for failure to comply with the recommendations of the Board in the matter of the Greenbush bridge, and William J. Roche and Mr. Ryan, village attorney, in reply.

Also, William Redmond in the matter of danger signals.

The Board adjourned.

APRIL 11, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Mr. E. Baylies, C. H. Ball and others in the matter of the application of the Johnstown, Gloversville and Kingsboro Railroad Company for a change of motive power.

The Secretary submitted the unfinished business under the rule, as follows:

Letter of John N. Taylor, general traffic manager Philadelphia and Reading Railroad Company, relative to Volkcommer, Bloomingdale & Co. Ordered on file.

Complaint of Samuel Little against the Delaware and Hudson Canal Company. Ordered usual course.

Report of the inspector in the matter of the complaint of town of York against the Delaware, Lackawanna and Western Railroad Company. Ordered that order be made in accordance with the report of the inspector.

Commissioner Rickard submitted a report in the matter of the accident occurring January 6th, one-half mile north of Smyrna on New York, Ontario and Western Railroad. Adopted and ordered issued.

Commissioner Beardsley submitted a report in the matter of the application of the Johnstown, Gloversville and Kingsboro Railroad Company, for a change of motive power, granting the same.

Ordered that the Secretary be instructed to require from the bridge engineer a report as to the condition of his work and what further strain sheets are to be examined, how many, and of what roads.

The Board adjourned to meet at the City Hall, Brooklyn, April 12, 1892, 11 A. M.

BROOKLYN, April 12, 1892.

The Board heard the Atlantic avenue Railroad Company on an application for a change of motive power on a portion of its route.

Commissioner Chapin, setting with the Board was assigned as a delegate from the Board to the convention of railroad commissioners at Washington on the 18th and 14th Insts.

The Board adjourned until 12 M., Monday, April 18th.

APRIL 18, 1892.

The Board met pursuant to adjournment.

Commissioner Beardsley in the chair.

The Board heard Messrs. Burton, Caten and Northrup in the matter of the application of the Johnstown, Gloversville and Kingsboro Railroad Company for a change of motive power.

Ordered that a hearing be held on Monday, April 25th, 12 M., and the authorities of Johnstown and Gloversville be notified.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of George I. Magee, president Fall Brook Coal Company, relative to increase of capital stock of the Corning, Cowanesque and Antrim Railroad Company. Ordered that hearing on same be set down for Monday, May 8d, at 11 A. M., at office of Commissioner Chapin, 192 Broadway, New York city.

Answer of New York and Massachusetts Railway Company to complaint of R. A. Hurted, alleging fires on line of road. Ordered usual course.

Complaint of P. Keogh against the Delaware and Hudson Canal Company. Ordered usual course.

Reply of the village of Little Falls to the answer of the New York Central and Hudson River Railroad Company to complaint of village. Ordered that hearing on the same be set down for April 25th, 1 P. M.

Application of Steinway Railway Company of Long Island City for change of motive power. Ordered hearing be set down for May 2d, 11 A. M., at common council chamber, Long Island City, and same be advertised.

Letter of John Taylor (general traffic manager Philadelphia and Reading Railroad Company) relative to complaint of Vollkommer, Bloomingdale and Company. Ordered that Secretary write for the bills of lading as requested.

Secretary submitted the report of the bridge engineer as to the condition of the work in his hands. Ordered filed.

Ordered that report in the matter of the residents of the town of York, against the Delaware, Lackawanna and Western Railroad Company, as submitted, be adopted and issued.

Ordered that the order of the Board as to the failure of the New York Central and Hudson River, and Boston and Albany Railroad Companies to conform to the recommendations of the Board in the Greenbush bridge matter, as submitted, be made.

Ordered that the recommendation of the Board in the matter of a foot bridge from the Partition street bridge, to the platforms of the East Albany station, be issued.

Commissioner Rickard submitted a report in the matter of the explosion of the locomotive boiler of engine 113, Long Island Railroad Company, at Oyster Bay, September 9th, 1891. Ordered that same be adopted and issued.

Letter of Robert and Clark, making of certain inquiries. Referred to the Secretary for answer.

Letter of Charles Scribner and Company, relative to reports of Broadway railway investigation. Ordered referred to Secretary for answer.

Letter of Ernest H. Davis, president Brooklyn, Bath and West End Railroad Company, relative to discontinuance of stations. Ordered referred to Secretary for answer.

Board adjourned to April 25th, 12 m.

APRIL 25, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of F. S. Cook, inviting Board to the Fox Emergency train stop test, April 28th at 3 p. m., at High Bridge, on New York and Northern Railroad.

Letter of A. P. Husted, relative to his complaint against New York and Massachusetts Railroad Company.

Correspondence relative to Johnstown, Gloversville and Kingsboro Railroad Company, application for a modification of the conditions precedent to the granting approval of change of motive power, and asking postponement of hearing. Set down for May 9th, 1892, 12 m.

Letter of James K. O. Sherwood, receiver Central New England and Western Railroad Company, relative to complaint of James L. Young. Ordered usual course.

Complaint of Albert Knapp against Central New England and Western Railroad Company, relative to fences. Ordered usual course.

Letter of Joseph W. Quackenbush against New York, Lake Erie and Western Railroad Company. Ordered usual course.

Application of the Adirondack Railroad Company to abandon portion of its route beyond North creek. Ordered hearing set down for May 9th, 3 p. m., and same be advertised in Warren, Essex, Hamilton, Franklin and St. Lawrence counties.

Application city attorney of Jamestown for postponement. Ordered that hearing be set down for May 24th and Attica 25th.

The Board adjourned to May 2d, 11 A. M., Long Island City.

MAY 2, 1892.

The Board met at Long Island City.

The Board heard Walter J. Foster, counsel, and William Steinway, president of the Steinway Railway Company, in an application for a change of motive power on the lines of that road. The papers submitted being in due form, and no opposition presenting itself, the application was granted.

Also, P. D. Ford and C. L. Addison, chief engineer and signal engineer respectively, of the Long Island Railroad Company, in the matter of the application of said company, for the Board's approval of an interlocking switch and signal device at the Myrtle avenue crossing of the Brooklyn City Railroad tracks. Approving the same.

The Board adjourned to 192 Broadway, New York city, May 8d.

MAY 8, 1892.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of J. W. McNamara, general manager of the Albany Railway. Ordered filed.

Application of the Port Richmond and Prohibition Park Railroad Company for an increase of capital stock. Ordered that the Secretary write for a more explicit statement as to the financial condition of the company and the purposes for which the proposed increase is to be devoted.

Ordered that the hearing in the application for a modification of the conditions precedent to the granting of a change of motive power in the Johnstown, Gloversville and Kingsboro Railroad be postponed until the 16th inst.

Description of Enos' automatic coupler. Ordered filed with "improvements."

Letter of Hon. Hamilton Fish, Jr., relative to emergency stop test at High Bridge on 28th April. Ordered filed.

Complaint of the Empire Gas and Fuel Company against the Bradford, Eldred and Cuba Railroad Company, alleging absence of screens on smoke stacks, by which neglect fires are communicated to property adjacent to the line. Ordered usual course.

Complaint of road commissioners of West Albany, alleging unsafe condition of bridge over New York Central tracks. Ordered referred to the Inspector for examination and report.

The Board heard Daniel Beach, general counsel of Corning, Cowanesque and Antrim Railroad Company, in application for an increase of capital stock. Ordered that accountant be instructed to examine and report on financial condition of road, and further hearing set down for 9th inst.

The Board adjourned to meet at Albany May 9, 1892, at 12 M.

MAY 9, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of H. G. Young, general manager Delaware and Hudson Canal Company, relative to the complaint of P. Keogh, alleging insufficiency of fences along the line of his property, and announcing the repair of the same.

Also, letter of P. Keogh, declaring that the fence was not properly repaired. Ordered that copy of letter of Mr. Keogh be transmitted to the company.

Complaint of C. J. Rice against the Rome, Watertown and Ogdensburg Railroad Company, in the matter of the transportation of milk. Ordered usual course, and Secretary write in reference to the position of the company.

Complaint of J. A. Smith against the Cooperstown Valley Railroad Company, alleging unnecessary blocking of crossings. Ordered usual course.

Complaint of E. L. Heald, of Fredonia, against Buffalo, Rochester and Pittsburgh Railroad Company, alleging insufficiency of fence on the line of his property. Ordered usual course.

Answer of the New York, Lake Erie and Western Railroad Company to the complaint of Mr. Joseph W. and Mrs. Carrie F. Quackenbush. Ordered usual course.

Complaint of the residents of Fort Edward against Glens Falls, Sandy Hill and Fort Edward Railroad Company, asking an order for the company to show cause. Order granted, date of 16th of May, 2 P. M.

Application of the Seneca Electric Railway Company for permission to increase its capital stock from \$40,000 to \$50,000. Order granted.

Letter of G. T. Rogers. Ordered filed.

Letter of James L. Young, announcing the Central New England Railroad Company are repairing the fences on the line of its property. Ordered filed.

Letter of Edward A. Mosely, Secretary of Inter-State Commerce Commission, relative to form of annual report. Ordered filed.

The accountant submitted a report in the matter of his examination into the financial condition of the Corning, Cowanesque and Antrim Railroad Company.

The Board heard Daniel Beach in the matter of the application of the Corning, Cowanesque and Antrim Railroad Company for increase of capital stock. Granting the same.

The Board heard L. Caten, superintendent of the Johnstown, Gloversville and Kingsboro Horse Railroad Company in its application for a change of motive power, and conceded the modifications of the conditions under the stipulation submitted. Signed for the counsel for the road, for the city of Gloversville and the village of Johnstown.

The Board went into executive session on the bills referred by the Governor for opinion and report.

In open session the Board ordered the bills referred returned to the Governor with the reports adopted.

The Board adjourned to meet at Albany, May 16th, 12 M.

MAY 16, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Mr. George T. Rogers in the matter of the application of the Binghamton and Port Dickinson Railway Company for a change of motive power. A majority of the consents of abutting property owners being shown, and a certified copy of the consent of the local authorities being filed and no opposition appearing, the Board approved the same.

In the matter of the order to show cause why the failure of the Glens Falls, Sandy Hill and Fort Edward Railroad Company to operate the whole of its route, should not be reported to the Attorney-General, postponement was had until May 31, 2:30 P. M.

The Secretary submitted the accumulated business under the rule, as follows:

Letter of B. Kennedy complaining of the failure of the Dansville and Mt. Morris Railroad Company to fence its line. Ordered that the order of the Board of July 6, 1891, which was suspended by the action of the Board on October 19, 1891, be enforced and that the parties thereto be so notified.

Letter of the inspector relative to the West Albany bridge. Ordered filed.

Letter of J. W. Quackenbush relative to back-flow on his lands. Ordered that he be informed that so long as the matter is in litigation it is impossible for the Board to interfere.

In the matter of the application of the Port Richmond and Prohibition Park Electric Railroad for an increase of capital stock. Ordered Secretary to write for more explicit statement as to the purposes to which the proposed increase is to be devoted.

Letter of the Buffalo, Rochester and Pittsburg Railroad Company relative to the complaint of Mr. Charles Williams. Ordered usual course.

Letter of Charles Ashley and R. E. Cleveland relative to the delay in transportation of freight on the Rome, Watertown and Ogdensburg Railroad. Ordered that the same be transmitted to the lessee company.

Letter of Delaware, Lackawanna and Western Railroad Company relative to the complaint of the town of York. Ordered Secretary write to the company asking whether the Board is to infer that they do not intend to comply with the order of the Board.

The Board adjourned to meet at Jamestown, 24th inst.

MAY 24, 1892.

The Board met at Jamestown and heard the application of citizens of Jamestown for relief, alleging a dangerous crossing at Main street.

The Board adjourned until June 1st, at Albany.

JUNE 1, 1892.

The Board met pursuant to adjournment.

The minutes were read and approved.

The Board heard Mr. Harrison in the matter of the application of the Fiftieth Street Astoria Ferry and Central Park Railroad Company for an increase of capital stock from \$500,000 to \$1,500,000. Ordered the same be approved.

The Board heard R. Armstrong, M. H. O'Brien, Edgar Hull and others for the complainants, and M. Powers and James O'Neil for the company, in the matter of the complaint of the residents of Fort Edward against the Glens Falls, Sandy Hill and Fort Edward Railroad Company.

The Secretary submitted the accumulated business under the rule, as follows:

Answer of the Central Vermont Railroad to the complaint of Mr. J. A. Smith of North Lawrence. Ordered usual course.

Answer of the Western New York and Pennsylvania Railroad Company to the complaint of Belden Wilcox. Ordered usual course.

Affidavits in the matter of the proposed increase of capital stock of the Port Richmond, etc., Electric Railroad Company. Ordered carried on file.

Report of the inspector in the matter of the grade crossings of Main and High streets in Attica. Commissioner Chapin moved that the papers in the Attica matter, including the report of the inspector, be referred to Commissioner Rickard. Carried.

Petition of Stephen G. Doolittle, highway commissioner of the town of Colesville, Broome county, asking relief in the matter of the bridge across Lovejoy's brook. Ordered usual course.

Letter of J. C. Morehead, general superintendent New York, Lake Erie and Western railroad, relative to the complaint of residents of the city of Jamestown. Commissioner Rickard moved that the papers in the case be referred to the inspector to confer with Engineer Buckholz of the Erie road, with reference to a scheme of remedy. Carried.

Application of the Niagara Falls and Suspension Bridge Railroad Company to increase its capital stock from \$100,000 to \$250,000. Ordered that same be granted.

Complaint of Joseph Duell, North Creek, against the Adirondack Railroad Company. Ordered usual course.

Report of inspector in the matter of Isaac Le Roy against New York Central and Hudson River Railroad Company (West Albany bridge). Ordered the Secretary write the company, presenting in effect the recommendations of the inspector as the recommendations of the Board.

Letters of John King and of A. T. Murray in the matter of the complaint of B. Kennedy against the Dansville and Mt. Morris Railroad Company. Ordered that the letter of Mr. Murray be copied and forwarded to complainant.

Answer of the Bradford, Eldred and Cuba Railroad Company to the complaint of the Empire Gas and Fuel Company. Ordered usual course.

Report of the Secretary in the matter of the trolley poles on the Steinway Railway. Ordered that the poles be approved.

Petition of residents of Kennedy, Chautauqua county, asking increase of facilities for traveling westward on the N. Y. P. and O. division of the New York, Lake Erie and Western Railroad. Ordered usual course.

Complaint and answer of C. R. Elliott against the Rome, Watertown and Ogdensburg Railroad Company. Ordered usual course.

Complaint and answer in the matter of C. J. Rice against the Rome, Watertown and Ogdensburg Railroad. Ordered usual course.

Complaint, answer and reply in the matter of Francis G. Hall against the New York, Lake Erie and Western Railroad Company, relative to insufficient fences. Ordered Secretary write the complainant as to a legal fence, and the defendants as to the complainant's denial of the repairs alleged to have been made by the railroad company.

Complaint of W. H. Nelson against the New York Central and Hudson River Railroad Company alleging undue delay in the matter of freight transportation. Ordered usual course and referred to the Secretary.

Letter of R. E. Cleveland and answer of the road to his complaint, and complaints of Charles Ashley of Ogdensburg, and Messrs. Gass Dor & Company of Canton. Ordered referred to Secretary for investigation and report.

The Board adjourned until June 18th, 2.30 P. M.

JUNE 18, 1892.

The Board met pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Board heard Hon. Alexander Bacon in the matter of the application of the Port Richmond and Prohibition Park Railroad Company for an increase of capital stock. Also on an application to use electricity as a motive power. Letter of application granted.

The Secretary submitted the unfinished business, under the rule, as follows :

In the matter of the complaint of the residents of Greigsville, alleging failure to comply with the recommendations of the Board on the part of the Delaware, Lackawanna and Western Railway Company, in the matter of the town of York against said company. Ordered that the Secretary notify the company of its refusal to comply with the recommendations of the Board, in writing, and if the neglect or refusal is continued to present the matter to the Attorney-General to take such proceedings as may be necessary.

Petition in the matter of proceedings against the New York, Lake Erie and Western Railroad Company for alleged violation of law in the matter of Sunday excursion trains. Ordered Secretary write that such violations as are alleged are questions of morals and criminal administration, and should be presented to the prosecuting authority of the county, not being properly within the jurisdiction of the Board.

Application of the Ithaca Street Railway Company for an increase of capital stock. Ordered that the Secretary write that the papers are insufficient and what the Board will require before it can proceed to a consideration of the application.

Letter of H. G. Young, being answer to the complaint of William Ordway relative to fencing and farm crossings. Ordered usual course.

Letter of Alexander T. Johnson, being a complaint against the Port Jervis and Monticello Railroad Company for failure to provide a farm crossing. Ordered usual course.

Letter of C. R. Lockwood, relative to the construction of the section of the law of 1890 relating to the bonding of roads. Ordered that Secretary write that the section he refers to has been superseded.

Letter of McGonigle & Lake, relative to center-bearing rails. Ordered that Secretary write it would appear that a T rail was a center-bearing rail within the meaning of the law.

Letter of E. Baylis, president trustees of the village of Johnstown. Ordered that Secretary write that all permits granted by the Board were made subject to the laws passed by the legislature.

Letter of John King, president New York, Lake Erie and Western Railroad Company, announcing that train No. 13, which the residents of Kennedy requested should be stopped at that point has been stopped.

Ordered that the Secretary notify the Lehigh Valley Railroad that it has failed to comply with the recommendation of the Board in the matter of Elizabeth Root, and that if refusal continues the Secretary shall present the matter to the Attorney-General to take such proceedings as may be necessary.

Letter of Belden Wilcox and others, being reply to the answer of the Western New York and Pennsylvania Railroad to their complaint. Ordered that the Secretary forward the reply to the company with a request that the discrepancy of statement may be explained.

Commissioner Chapin presented the petition of F. W. Besser and others, relative to the proposed removal of the station from Averne on the Long Island Railroad. Ordered usual course.

Ordered that the Keeseville, Ausable Chasm, etc., railroad be relieved from making quarterly reports in the future.

Ordered that the last two quarterly reports of the Amsterdam Street Railroad Company be accepted as sufficient, but the company be notified that hereafter the balance sheet must be given.

Commissioner Rickard submitted a report in the matter of the residents of the village of Attica against the New York, Lake Erie and Western Railroad Company. Adopted and ordered issued.

The Board adjourned until July 5th, at 2 P. M.

NEW COMPANIES

Formed under the Laws of the State of New York by filing articles of association from June 30, 1891, to June 30, 1892.

SURFACE STEAM ROADS.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, miles.	Capital stock.
St. Lawrence and Adirondack....	Essex, Franklin, Hamilton, Herkimer, Lewis, Oneida, St. Lawrence, Franklin.....	Sept. 10, 1891 Sept. 10, 1891	175 12	\$3,500,000 240,000
Malone and St. Lawrence				
Herkimer, Newport and Poland Extension	Herkimer and Oneida ..	Sept. 10, 1891	20	500,000
Westchester and Putnam	Westchester & Putnam	Sept. 29, 1891	11	100,000
Syracuse and Oneida Lake	Oneida	Oct. 10, 1891	12	125,000
New York and Queens County Tunnel.....	New York and Queens.	Dec. 7, 1891	3.5	40,000
New York Bay Extension	Kings and Queens.....	Jan. 26, 1892	17	600,000
New York and Yonkers	New York and Westchester.....	Feb. 12, 1892	3.5	100,000
Long Island and New York Terminal	New York and Queens.	Feb. 27, 1892	4	1,000,000
St. Regis and Salmon River	Franklin	Mar. 15, 1892	76	2,300,000
St. Lawrence	St. Lawrence	Mar. 16, 1892	6	60,000
Lima and Honeoye Falls	Livingston and Monroe.	Mar. 23, 1892	4.125	100,000
New York and Boston	Westchester.....	Mar. 30, 1892	20	3,000,000
Gouverneur and Oswegatchie.....	St. Lawrence.....	April 12, 1892	15	350,000
Davenport, Middleburg and Durham	Albany, Dela., Green, Schoharie, Kings, New York, Queens.....	April 20, 1892	60	600,000
New York Connecting.....	Westchester	April 21, 1892	10	100,000
Lewiston and Youngstown.....	Niagara	May 11, 1892	7	75,000
Middlesex Valley	Ontario and Yates	May 11, 1892	29.75	500,000
Binghamton and State Line.....	Broome	May 12, 1892	18	180,000
Kingston and Utica.....	Delaware, Green, Schoharie	May 14, 1892	4	40,000
Niagara Junction.....	Niagara	May 27, 1892	6	300,000
New York, New Jersey and Eastern.....	New York and New Jersey (State).....	June 6, 1892	5	100,000

SURFACE STREET ROADS.

Lockport and Olcott Beach	Niagara	July 7, 1891	12	120,000
East side (Elmira).....	Chemung.....	July 29, 1891	5	50,000
West side (Elmira).....	Chemung.....	July 29, 1891	10	100,000
Buffalo and Williamsville Electric	Erie	Aug. 10, 1891	5	500,000
Buffalo, Kenmore and Tonawanda Electric.....	Erie	Sept. 23, 1891	7.9	150,000
North New York Junction.....	New York.....	Oct. 1, 1891	2.33	250,000
Astoria Street	Queens	Nov. 16, 1891	2	100,000
Williamsbridge, Woodlawn and Westchester	New York and Westchester.....	Nov. 21, 1891	24	240,000
Port Richmond and Prohibition Park Electric.....	Richmond	Dec. 4, 1891	2	50,000
Astoria, Blissville and Calvary Cemetery	Queens	Dec. 8, 1891	4	160,000
Hornellsville Electric.....	Steuben	Dec. 16, 1891	5	50,000
Canisteo Valley Electric	Steuben	Dec. 23, 1891	2	20,000
Harlem and Kingsbridge	New York.....	Jan. 2, 1892	8	300,000
Coney Island, Fort Hamilton and Brooklyn	Kings.....	Jan. 27, 1892	5	50,000
Buffalo and Lancaster Electric....	Erie	Feb. 23, 1892	20	200,000
Cayadutta Electric	Fulton & Montgomery ..	Feb. 27, 1892	12	120,000
Buffalo, Bellevue and Lancaster.	Erie	Mar. 1, 1892	11	90,000
Kingston City Electric	Ulster	Mar. 17, 1892	2.97	175,000
Steinway (Long Island City).....	Queens	Mar. 26, 1892	26	2,500,000
Buffalo, North Main Street and Tonawanda Electric.....	Erie	Mar. 26, 1892	6	60,000
Fulton and Montgomery County Electric.....	Fulton & Montgomery ..	Mar. 28, 1892	7	75,000
Buffalo and Hamburg.....	Erie	Mar. 31, 1892	9	150,000
New York and South Mt. Vernon.	New York and Westchester	April 5, 1892	8	80,000

*New companies formed under the Laws of the State of New York,
etc.— (Concluded).*

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, miles.	Capital stock.
North Mt. Vernon	Westchester.....	April 30, 1892	2	\$30,000
Buffalo and East Aurora Electric.	Erle	April 30, 1892	12	150,000
West Side (New York)	New York	April 22, 1892	5	100,000
Wakenfield and Westchester Traction	Westchester.....	April 28, 1892	7	125,000
Suburban Traction.....	Westchester.....	April 28, 1892	5	150,000
Van Nest, West Farms and Westchester Traction.....	Westchester.....	April 28, 1892	5	150,000
Williamsbridge and Westchester Traction	Westchester.....	April 28, 1892	4	80,000
West Farms and Westchester Traction	Westchester.....	April 28, 1892	3	80,000
Ossining Street	Westchester.....	April 30, 1892	2.5	50,000
Crescent (Long Island City)	Queens	May 2, 1892	6	100,000
Hornellsville and Canisteo	Steuben	May 2, 1892	5	50,000
New York, Elemsford and White Plains	Westchester.....	May 4, 1892	4	60,000
New York, White Plains and Mamaroneck	Westchester.....	May 4, 1892	6	90,000
Flushing, Newtown and Long Island City	Queens	May 25, 1892	4	100,000

COMPANIES REORGANIZED.

The following companies were during the year sold under mortgage foreclosure and reorganized, to wit: "Erie and Genesee Valley Railroad Company" sold and reorganized as the

"DANVILLE AND MOUNT MORRIS RAILROAD COMPANY."

Capital stock, \$50,000.

Articles of incorporation filed October 21, 1891.

"Tonawanda and Cuba Railroad Company" sold and reorganized as the

"ATTICA AND FREEDOM RAILROAD COMPANY."

Capital stock, \$108,000.

Length of new road, thirty-six miles.

Articles of incorporation filed November 9, 1891.

"Sea Beach and Brighton Railroad Company," sold under foreclosure and reorganized as the

"BRIGHTON AND BENSONHURST RAILROAD COMPANY."

Capital stock, \$200,000.

Articles of incorporation filed June 9, 1892.

CONSOLIDATED COMPANIES.

The following corporations were consolidated and name changed during the year as follows, viz.:

STEAM ROADS.

NAME OF OLD COMPANIES.	Name of present company.	Certificate filed.	Capital stock.
Herkimer, Newport and Poland; Herkimer, Newport and Poland Extension Railway Companies, and the St. Lawrence and Adir- ondack Railroad Companies.....	Mohawk and Malone Railway Company.....	June 23, 1892	\$4,500,000

EXTENSION OF ROUTES.

The following companies have, during the last year, filed articles of extension of route, viz.:

NAME OF ROAD.	Extension filed.	Length of extension.
Houston, West Street and Pavonia Ferry.....	June 9, 1893
Depot Belt Line (Syracuse).....	June 13, 1892	3 1/2 miles.
Oswego Street.....	June 30, 1892	12,750 feet.
Union Street (Brooklyn).....	June 30, 1893
Ninth Avenue (New York).....	June 11, 1892
Sixth Avenue (New York).....	June 11, 1892

INCREASE OF CAPITAL STOCK.

The following companies have increased their capital stock during the year, to wit.:

NAME OF ROAD.	From.	To.	Filed with Secretary of State.
Syracuse, Eastwood Heights and DeWitt.....	\$40,000	\$150,000	July 16, 1891
Oswego street.....	25,000	150,000	Sept. 17, 1891
Niagara Falls and Suspension Bridge.....	50,000	100,000	Sept. 21, 1891
Schenectady Street.....	25,000	300,000	Sept. 26, 1891
New Jersey and New York Extension.....	60,000	75,000	Nov. 5, 1891
Northern Adirondack.....	450,000	840,000	Nov. 28, 1891
Otis Elevating.....	100,000	170,000	Jan. 26, 1892
Herkimer, Newport and Poland.....	200,000	500,000	Feb. 9, 1892
Croastown Street (Buffalo).....	500,000	1,500,000	Feb. 24, 1892
Seneca Electric.....	40,000	50,000	May 16, 1892
Niagara Falls and Suspension Bridge.....	100,000	250,000	June 10, 1892

SURRENDER OF CAPITAL STOCK.

The following companies have during the year surrendered capital stock, as follows:

THE WEST SIDE STREET RAILWAY COMPANY

Surrendered to the "Buffalo Street Railway Company."

Certificate filed in the office of the Secretary of State, April 5, 1892.

ABANDONMENT OF PART OF ROUTE.

The Brooklyn Elevated Railroad Company abandonment of 54,000 feet of its route.

Certificate filed in the office of the Secretary of State, December 30, 1891.

LEASED ROADS.

The following roads were leased during the year, viz. :

WATERVLIET TURNPIKE AND RAILROAD COMPANY,

was leased February 5, 1892, to the Albany Railway Company.

Lease filed in the office of Secretary of State, March 19, 1892.

SIXTH AVENUE RAILROAD COMPANY,

was leased February 1, 1892, to the Houston, West Street and Pavonia Ferry Railway Company.

Lease filed in the office of Secretary of State, April 12, 1892.

NINTH AVENUE RAILROAD COMPANY,

was leased March 12, 1892, to the Houston, West Street and Pavonia Ferry Railway Company.

Lease filed in the office of Secretary of State, April 20, 1892.

SYRACUSE, GENEVA AND CORNING RAILWAY COMPANY,

was leased May 12, 1892, to the Corning, Cowanesque and Antrim Railway Company.

Lease filed in the office of Secretary of State, June 15, 1892.

AMENDED ARTICLES OF ASSOCIATION.

"New York Cable Railway Company."

Certificate filed in the office of the Secretary of State, September 5, 1891.

"Herkimer, Newport and Poland Railway Company." Changed from narrow to standard gauge and reincorporated.

Certificate filed in the office of the Secretary of State, December 8, 1891.

CHANGE OF NAME.

The name of the "Adirondack and St. Lawrence Railroad Company," by order of the Supreme Court, has been changed to the Malone and Schenectady Railway Company.

Certificate filed in the office of the Secretary of State, May 6, 1892.

ENACTMENTS.

1892.

Chap. 63. An act in relation to Eighth avenue in the city of Brooklyn.

Chap. 102. An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities having over one million inhabitants," passed January thirty-first, eighteen hundred and ninety-one.

Chap. 151. An act to ratify a certain contract entered into by and between the city of Buffalo, and the Buffalo Railway Company, the Crosstown Street Railway Company, of Buffalo, and the West Side Street Railway Company, and to carry the same into full force and effect.

Chap. 183. An act to authorize the Rome, Watertown and Ogdensburg Railroad Company to purchase stock of a bridge company or companies.

Chap. 186. An act to amend section six hundred and fifty-four of the Penal Code relative to injury to property.

Chap. 203. An act to ratify and confirm the action of the Dunkirk and Fredonia Railroad Company in laying down the tracks of its road in the center of Central avenue, in the city of Dunkirk, between Fourth street and the crossing of the New York, Chicago and Saint Louis railroad, over said avenue; and authorizing and empowering the said railroad company to maintain the track of its road on the center line of said avenue.

Chap. 218. An act to amend section thirteen of the Penal Code of the state of New York, relating to punishments for crime.

Chap. 219. An act to amend section six hundred and eighty-one and six hundred and eighty-two of the Code of Criminal Procedure, relating to the arraignment and punishment of corporations for crime.

Chap. 272. An act to amend section one hundred and nineteen of the Penal Code.

Chap. 306. An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws."

Chap. 313. An act to authorize the commissioners of parks of the city of New York to improve and beautify Van Cortlandt park by altering or changing the location of existing railway routes in said park, and in lieu thereof to establish other and new routes of railway for the transportation of persons and property through said park.

Chap. 337. An act to amend chapter five hundred and sixty-four of the laws of eighteen hundred and ninety, entitled "An act in relation to stock corporations, constituting chapter thirty-eight of the general laws."

Chap. 339. An act to regulate, improve and enlarge Park avenue above One Hundred and Sixth street in the city of New York, and providing for the passage of intersecting streets, under the railroad structure of the New York and Harlem Railroad Company, and for the elevation of said railroad structure, and for changing the grade of said railroad, and for the construction of a new railroad bridge at an elevation over the Harlem river, and providing for all changes in any avenues, streets or railroads that may be necessary by reason of such change in structure and grade and increased elevation of bridge, and for other purposes.

Chap. 340. An act to amend chapter three hundred and sixty-one of the laws of eighteen hundred and sixty-three, entitled "An act to authorize the construction of a railway and tracks in the towns of West Farms and Morrisania," and all acts amendatory thereof.

Chap. 353. An act to further amend chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, entitled "An act to provide for the relief of the city of Buffalo and to change and regulate the crossing and occupation of the streets, avenues and public grounds in said city by railroads," and to amend chapter two hundred and fifty-five of the laws of eighteen hundred and ninety, entitled "An act to amend chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for the relief of the city of Buffalo and to change and regulate the crossing and occupation of the streets, avenues and public grounds in said city by railroads, and also to give further power to the grade crossing commissioners of said city.'"

Chap. 367. An act in relation to Madison avenue in the city of New York.

Chap. 401. An act to revise and consolidate the laws regulating the sale of intoxicating liquors.

Chap. 425. An act to authorize the state engineer and surveyor to file certain reports with the board of railroad commissioners.

Chap. 442. An act to amend section thirteen, title sixteen, chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled "An act to revise and combine in a single act, all existing special and local laws affecting public interests in the city of Brooklyn, relating to motive power of railroads upon certain streets."

Chap. 460. An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws."

Chap. 482. An act to incorporate the Niagara River Tunnel Company.

Chap. 488. An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof.

Chap. 532. An act relative to railways in and near public parks in the cities of the State of New York.

Chap. 534. An act to amend sections one hundred and fifty-two, one hundred and fifty-three, one hundred and fifty-six, one hundred and sixty-nine and one hundred and seventy of title six of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws."

Chap. 556. An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants."

Chap. 604. An act for the relief of street surface railroad companies organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four.

Chap. 662. An act to amend sections five hundred and ninety-one, five hundred and ninety-two, six hundred and two, six hundred and eighteen, six hundred and twenty-one, six hundred and forty-nine of chapter six hundred and seventy-six of the laws of eighteen hundred and eighty-one, entitled "An act to establish a Penal Code."

Chap. 668. An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and eighty-six, entitled "An act to tax stock corporations for the privilege of organization."

Chap. 676. An act to amend the Railroad Law.

Chap. 685. An act in relation to municipal corporations, constituting chapter seventeen of the general laws.

Chap. 692. An act to amend the Penal Code.

Chap. 693. An act to amend the Penal Code.

Chap. 700. An act to amend and add to the Railroad Law.

Chap. 702. An act to amend chapter five hundred and sixty-five, laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter twenty of the general laws."

Chap. 711. An act to provide for and limit the hours of service on railroads.

EXPENSES OF THE BOARD.

Traveling expenses of the Board of Railroad Commissioners for the year ending June 30, 1898, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 585, Laws of 1890, to \$300 a month, in the aggregate, or \$6,000 per annum.)

Of the Commissioners.....	\$675 04
Of the secretary, inspector and accountant.....	509 33
Of the marshal, stenographer and clerks.....	51 42
Total.....	<u>\$1,235 79</u>

ALPHABETICAL LIST

OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE

Name of road.	When formed.	Name of road.	When formed.
Addison and Northern Pennsylvania.....	1882	Auburn and Port Byron.....	1866
Addison, Osceola and Cowanesque Valley.....	1878	Auburn and Rochester.....	1866
Addison and Pennsylvania.....	1887	Auburn and Syracuse.....	1884
Adirondack.....	1839	Auburn and Willow Brook.....	1872
Adirondack.....	1883	Aurora and Buffalo.....	1888
Adirondack Estate Railroad Company.....	1860	Avenue C.....	1869
Adirondack Extension.....	1891	Avon, Genesee and Mount Morris.....	1880
Adirondack and St. Lawrence.....	1890	Babylon.....	1871
Adirondack Railway.....	1882	Baldwinsville Branch.....	1866
Albany.....	1861	Batavia, Albion and Lake Ontario.....	1868
Albany.....	1863	Batavia, Attica and Salamanca.....	1867
Albany, Bennington and Rutland.....	1850	Batavia and Cheektowaga.....	1860
Albany and Boston.....	1862	Bath and Crooked Lake.....	1881
Albany and Boston.....	1864	Bath and Hammondsport.....	1872
Albany and Kenwood.....	1863	Bay Ridge and Sea Shore.....	1872
Albany and Lackawanna.....	1866	Bay Ridge and Sea Side.....	1871
Albany and New York.....	1866	Bay Shore.....	1866
Albany and Northern.....	1861	Beimout and Buffalo.....	1871
Albany Railroad.....	1863	Binghamton Central.....	1868
Albany Railway.....	1863	Binghamton, Dushore and Williamsport.....	1872
Albany, Sandlake and Stephentown.....	1871	Binghamton and Port Dickinson.....	1866
Albany and Saratoga.....	1862	Binghamton and Southwestern.....	1867
Albany and Saratoga Springs.....	1863	Binghamton and Susquehanna.....	1868
Albany and Schenectady.....	1847	Binghamton and State Line.....	1868
Albany and Susquehanna.....	1861	Binghamton and Williamsport.....	1868
Albany Terminal.....	1888	Black River.....	1866
Albany and Vermont.....	1859	Black River Company.....	1862
Albany, Vermont and Canada.....	1859	Black River and Morristown.....	1870
Albany and West Stockbridge.....	1836	Black River and St. Lawrence.....	1866
Albion and Tonawanda.....	1832	Black River and Utica.....	1863
Allegany Central.....	1881	Black River and Woodhull.....	1866
Allegany Central.....	1882	Bleecker Street and Fulton Ferry.....	1864
Allegany and Kinzua.....	1867	Blossburgh and Corning.....	1864
Amsterdam, Chuctanunda and Northern.....	1879	Boonville and Constableville.....	1866
Amsterdam Street.....	1873	Boonville and Ontario.....	1866
Amsterdam Electric.....	1888	Boonville and Port Ontario.....	1872
Arcade and Genesee River.....	1872	Boonville and Turin.....	1866
Astoria, Blissville and Calvary Cemetary.....	1891	Boston and Albany.....	1870
Astoria and Hunter's Point.....	1867	Boston, Albany and Schenectady.....	1877
Astoria and Hunter's Point.....	1877	Boston, Hartford and Erie.....	1864
Astoria Street.....	1891	Boston, Hartford and Erie Extension.....	1864
Atlantic Avenue.....	1872	Boston, Hartford and Erie Ferry Extension.....	1864
Atlantic Avenue.....	1890	Boston and Henderson Harbor.....	1872
Atlantic Cable.....	1888	Boston, Hoosac Tunnel and Albany.....	1872
Atlantic and Great Western.....	1859	Boston, Hoosac Tunnel and Western.....	1877
Atlantic and Great Western.....	1872	Boston, Hoosac Tunnel and Western Rail- way.....	1881
Atlantic and Great Western of New York, Atlantic and Great Western Railroad Company of New York and Penn'a.....	1872	Boston, New York and Chicago.....	1874
Atlantic and Ontario.....	1871	Boston, New York and Western.....	1860
Attica and Allegheny Valley.....	1852	Boston, Rome and Oswego.....	1871
Attica and Arcade.....	1870	Boston, Saratoga and Western.....	1870
Attica and Arcade.....	1880	Boutenberg.....	1866
Attica and Buffalo.....	1836	Bowery Bay and Hunter's Point.....	1869
Attica and Hornellsville.....	1845	Bradford, Eldred and Cuba.....	1861
Attica, Lockport and Lake Ontario.....	1863	Branchport and Penn Yan.....	1866
Attica and Sheldon.....	1836	Breslau and Fire Island.....	1872
Auburn City.....	1866	Brewerton and Syracuse.....	1866
Auburn and Canal.....	1832	Bridge Tunnel.....	1866
Auburn and Deposit Air Line.....	1871	Brighton (No. 1).....	1860
Auburn and Homer Midland.....	1872	Brighton (No. 2).....	1860
Auburn and Ithaca.....	1869	Brighton Beach.....	1870
Auburn and Owasco Lake.....	1871	Brighton Beach and New York.....	1860
Auburn and Owasco Lake.....	1880	Broadway and Bowery Bay.....	1868
Auburn and Owasco Lake Electric.....	1889	Broadway (of Brooklyn).....	1868

Name of road.	When formed.	Name of road.	When formed.
Broadway (of New York).....	1884	Buffalo, Belleview and Lancaster.....	1893
Broadway Central Underground.....	1880	Buffalo and Black Rock.....	1855
Broadway, Lexington and Fifth Avenue.....	1884	Buffalo, Bradford and Pittsburg.....	1859
Broadway Railway.....	1890	Buffalo Branch of the Erie Railway.....	1861
Broadway and Rockaway Beach.....	1880	Buffalo, Cayuga Valley and Pine Creek.....	1858
Broadway and Seventh Avenue.....	1884	Buffalo, Chautauqua Lake and Pittsburg.....	1879
Broadway Surface.....	1884	Buffalo City.....	1897
Broadway Underground.....	1880	Buffalo City.....	1877
Broadway Underground Connecting.....	1880	Buffalo, Cleveland and Chicago Railway.....	1881
Broadway and Yonkers Patent.....	1861	Buffalo and Conhocton Valley.....	1850
Brook Avenue.....	1885	Buffalo, Corning and New York.....	1858
Brookfield.....	1888	Buffalo, Corey and Pittsburg.....	1883
Brooklyn, Bath and Coney Island.....	1862	Buffalo Creek.....	1890
Brooklyn, Bath and Coney Island.....	1879	Buffalo Creek Extension.....	1874
Brooklyn, Bath and West End.....	1879	Buffalo Creek Transfer.....	1881
Brooklyn Bridge and South Ferry.....	1887	Buffalo Crosstown.....	1874
Brooklyn Bridge and South Shore.....	1886	Buffalo Dock and Connecting.....	1880
Brooklyn and Brighton Beach.....	1887	Buffalo and East Aurora Electric.....	1898
Brooklyn, Bushwick and Queens Co.....	1885	Buffalo East Side Street.....	1870
Brooklyn Cable.....	1883	Buffalo Electric and Cable Street.....	1889
Brooklyn Cable.....	1886	Buffalo and Erie.....	1883
Brooklyn and Canarsie.....	1865	Buffalo and Erie.....	1887
Brooklyn Central.....	1859	Buffalo Erie Basin.....	1876
Brooklyn Central and Jamaica.....	1860	Buffalo and Geneva.....	1886
Brooklyn City.....	1853	Buffalo and Geneva.....	1889
Brooklyn City Elevated.....	1875	Buffalo and Great Western.....	1889
Brooklyn City Elevated.....	1879	Buffalo Harbor.....	1868
Brooklyn City, Hunter's Point and Pros- pect Park.....	1868	Buffalo and Hamburg.....	1889
Brooklyn City and Newtown.....	1860	Buffalo and Hinsdale.....	1846
Brooklyn City and Ridgewood.....	1861	Buffalo and International.....	1887
Brooklyn City and Rockaway.....	1862	Buffalo and International Bridge.....	1871
Brooklyn and Coney Island.....	1876	Buffalo and Jamestown.....	1873
Brooklyn and Coney Island Central.....	1877	Buffalo, Kenmore and Tonawanda Electric.....	1881
Brooklyn, Coney Island and Rockaway.....	1878	Buffalo, Lackawanna and Pacific.....	1889
Brooklyn Crosstown.....	1872	Buffalo and Lancaster Electric.....	1882
Brooklyn, East New York and Rockaway.....	1864	Buffalo and Lake Huron.....	1868
Brooklyn Elevated.....	1884	Buffalo Lehigh.....	1881
Brooklyn Elevated and Atlantic Beach.....	1879	Buffalo and Lockport.....	1863
Brooklyn Elevated Railway Construction Company.....	1882	Buffalo and New York.....	1861
Brooklyn Elevated Silent Safety.....	1874	Buffalo and New York City.....	1861
Brooklyn, Flatbush and Coney Island.....	1866	Buffalo, New York and Erie.....	1887
Brooklyn, Flatbush and Coney Island.....	1859	Buffalo, New York and Philadelphia.....	1871
Brooklyn, Flatbush and Coney Island Rail- way.....	1877	Buffalo and Niagara Falls.....	1884
Brooklyn, Flatbush and Rockaway Beach.....	1879	Buffalo Niagara Slip.....	1877
Brooklyn, Fort Hamilton, Bath and Coney Island.....	1886	Buffalo, North Main street and Tonawanda Electric.....	1892
Brooklyn, Fort Hamilton and Coney Island.....	1867	Buffalo and Oil Creek Cross Cut.....	1895
Brooklyn, Fort Hamilton and Coney Island.....	1881	Buffalo and Pittsburg.....	1852
Brooklyn Heights.....	1847	Buffalo, Pittsburg and St. Louis.....	1862
Brooklyn Heights Cable.....	1886	Buffalo, Pittsburg and Western.....	1880
Brooklyn and Jamaica.....	1882	Buffalo, Pittsburg and Western.....	1881
Brooklyn and Jamaica.....	1866	Buffalo and Rochester.....	1860
Brooklyn and Jersey City Ferry.....	1884	Buffalo, Rochester and Pittsburg.....	1881
Brooklyn and Long Island Cable.....	1884	Buffalo, Rochester and Pittsburg.....	1886
Brooklyn and Long Island City.....	1880	Buffalo, Rochester and Pittsburg.....	1887
Brooklyn and Long Island Trunk.....	1883	Buffalo and South Park Belt Line.....	1887
Brooklyn and Montauk.....	1880	Buffalo and Southwestern.....	1878
Brooklyn, Middle Village and Jamaica.....	1866	Buffalo and State Line.....	1849
Brooklyn, Prospect Park and Flatbush.....	1867	Buffalo and Springville.....	1871
Brooklyn, Prospect Park and Jamaica Bay.....	1869	Buffalo Street.....	1860
Brooklyn and Queens County.....	1883	Buffalo, Syracuse and Albany.....	1878
Brooklyn and Rockaway.....	1867	Buffalo, Thousand Islands and Portland.....	1890
Brooklyn and Rockaway Beach.....	1864	Buffalo, Tonawanda and Niagara Falls.....	1853
Brooklyn, Rockaway and Coney Island.....	1881	Buffalo, Tonawanda and Niagara River.....	1890
Brooklyn and Sea Shore.....	18 1	Buffalo and Washington.....	1885
Brooklyn Steam Transit.....	1869	Buffalo and Williamsville.....	1868
Brooklyn Steam Transit.....	1871	Buffalo and Williamsville.....	1870
Brooklyn Sub-railway.....	1886	Buffalo and Williamsville.....	1886
Brooklyn and Suburban.....	1887	Buffalo and Williamsville Electric.....	1891
Brooklyn Underground.....	1881	Buffalo, Williamsville and Northern.....	1888
Brooklyn, Winfield and Newtown.....	1870	Burnett Street Car.....	1886
Brooklyn and Winfield Railway.....	1869	Bushwick.....	1867
Broome and DeLancey Street Crosstown.....	1886	Cairo.....	1884
Broome, DeLancey and Spring Streets.....	1885	Calvary Cemetery, Greenpoint and Brook- lyn.....	1885
Buffalo.....	1860	Camden, Watertown and Northern.....	1880
Buffalo and Allegany Valley.....	1853	Campbell Hall Connecting.....	1889
Buffalo, Aurora and Southeastern.....	1882	Canajoharie and Catskill.....	1880
Buffalo and Batavia.....	1888	Canal.....	1878
		Canandaigua and Bath.....	1872
		Canandaigua and Corning.....	1845

Name of road.	When formed.	Name of road.	When formed.
Canandaigua and Elmira.....	1882	Citizens' Street Railway.....	1890
Canandaigua Lake.....	1887	Citizens' Street R. R. Co. of Rochester.....	1885
Canandaigua and Niagara Falls.....	1881	Citizens' Surface.....	1886
Canandaigua, Palmyra and Ontario.....	1872	City (Binghamton).....	1883
Canandaigua Railway and Transportation Company.....	1884	City Island.....	1884
Canandaigua Street.....	1886	City Line and Canarsie.....	1899
Canandaigua and Syracuse.....	1883	City of Poughkeepsie.....	1889
Canarsie, Brooklyn and Winfield.....	1884	City (Poughkeepsie).....	1878
Canarsie and Flatbush.....	1874	City Railway Company of New York.....	1886
Canastota Northern.....	1886	Clayton and Theresa.....	1871
Canisteo Valley Electric.....	1881	Clinton Avenue.....	1884
Canton and St. Lawrence River.....	1885	Clinton and South Clinton.....	1883
Canton and Waddington.....	1884	Clove Branch.....	1888
Capitol Railway.....	1881	Clyde and Sodus Bay.....	1883
Cassadaga and Erie.....	1886	Coeymans.....	1886
Castleton and West Stockbridge.....	1884	Cohoes and Waterford.....	1883
Carthage and Adirondack.....	1888	Cohoes and Waterford.....	1887
Carthage, Watertown and Sacketts Harbor.....	1889	Cohoes and Waterford.....	1873
Catskill City.....	1885	Cold Springs.....	1889
Catskill Horse.....	1874	Columbia and Rensselaer.....	1886
Catskill and Ithaca.....	1883	Columbia Street and Erie Basin.....	1886
Catskill Mountain.....	1880	Concourse.....	1880
Catskill Mountain.....	1885	Conesus Lake.....	1888
Catskill and Schoharie Valley.....	1871	Coney Island Beach.....	1877
Cattaraugus.....	1888	Coney Island and Brooklyn.....	1880
Cayadutta Electric.....	1882	Coney Island Centre and Safety Rails Elevated.....	1880
Cayuga Lake.....	1887	Coney Island and East River.....	1876
Cayuga Midland.....	1871	Coney Island Electrical.....	1887
Cayuga Northern.....	1872	Coney Island Elevated.....	1880
Cayuga Railway.....	1874	Coney Island, Fort Hamilton and Brooklyn.....	1882
Cayuga Southern.....	1878	Coney Island High and Low-water Mark.....	1877
Cayuga and Susquehanna.....	1843	Coney Island and Rockaway.....	1878
Cazenovia and Canastota.....	1888	Coney Island and Sea View Elevated.....	1880
Cazenovia and Canastota.....	1873	Coney Island, Sheepshead Bay and Ocean Avenue.....	1880
Cazenovia, Canastota and De Ruyter.....	1876	Coney Island Surface.....	1877
Cazenovia, Canastota and De Ruyter.....	1872	Coney Is and Surface.....	1889
Cazenovia and De Ruyter.....	1885	Coney Island Transit.....	1880
Cedarhurst.....	1889	Connecting Terminal.....	1881
Central City.....	1873	Cooperstown and Charlotte Valley.....	1888
Central Crostown.....	1889	Cooperstown and Cherry Valley.....	1887
Central Dock and Terminal.....	1889	Cooperstown and Susquehanna Valley.....	1885
Central Elevated Railway.....	1886	Copenhagen and Turin.....	1886
Central Elevated Railway.....	1886	Corning and Blossburgh.....	1861
Central of Long Island.....	1871	Corning, Cowanesque and Antrim.....	1873
Central New England and Western.....	1889	Corning and Olean.....	1883
Central Park, North and East River.....	1880	Corning and Painted Post.....	1886
Central Park and Kings Bridge.....	1886	Corning and Seneca Lake.....	1884
Central Railroad Extension.....	1873	Cornwall Branch.....	1889
Central Saratoga.....	1878	Cornwall Suspension Bridge.....	1888
Central of Staten Island.....	1870	Cortland and Homer.....	1888
Central (Staten Island).....	1873	Coudersport, Hornellsville and Lackawanna.....	1880
Central Tunnel.....	1881	Court Street and East End.....	1886
Central Valley.....	1870	Court Street and River Side.....	1873
Chambers Street.....	1877	Court Street and River Side.....	1885
Chambers Street.....	1884	Coxsackie and Schenectady.....	1887
Chambers Street Crostown.....	1880	Crescent (Long Island City).....	1888
Chambers Street and Grand Street Ferry.....	1884	Croastown street.....	1880
Champlain and St. Lawrence.....	1881	Croastown and Rochester.....	1880
Charlotte Lake View.....	1875	Croton Valley.....	1885
Charlotte and Lake View.....	1881	Cypress Hill Railway.....	1873
Chateaugay.....	1879	Danville and Rochester.....	1888
Chateauray.....	1887	Davenport.....	1888
Chautauqua County.....	1881	Davenport, Middlebury and Durham.....	1888
Chautauqua Lake.....	1874	Delaware.....	1886
Chautauqua Lake.....	1885	Delaware and North River.....	1889
Chautauqua Lake.....	1886	Delaware and Otsego.....	1887
Chautauqua Valley.....	1888	Delhi and Hudson River.....	1888
Chemung.....	1845	Delhi and Middletown.....	1871
Chemung and Ithaca.....	1887	Deerfield and Utica.....	1885
Chenango Valley.....	1888	Depot Belt Line.....	1881
Cherry Valley, Sharon and Albany.....	1889	Dexter and Ontario.....	1888
Cherry Valley and Mohawk River.....	1884	Division Avenue.....	1883
Cherry Valley and Spraker's Horse Power Railroad Company.....	1880	Dry Dock, East Broadway and Battery.....	1883
Cherry Valley and Susquehanna.....	1886	Dunderberg Spiral.....	1889
Christopher and Tenth Street.....	1873	Dunkirk, Allegheny Valley and Pittsburgh.....	1872
Christopher St. and James Slip Ferry.....	1886	Dunkirk and Chautauqua Lake.....	1885
Citizens' Electric.....	1887	Dunkirk, Chautauqua Lake and Pittsburg.....	1873
Citizens' Railway.....	1886		
Citizens' Railway of Jamestown.....	1840		

Name of road.	When formed.	Name of road.	When formed.
Dunkirk and Fredonia	1864	Flahkill and Matteawan Street	1896
Dunkirk and Fredonia Rapid Transit	1901	Flahkill and Newburgh	1876
Dunkirk and Junction	1879	Pitchburg	1849
Dunkirk, Warren and Pittsburgh	1867	Flatbush, Coney Island and Canarsie	1864
Dunkirk, Warren and Pittsburgh	1870	Flatbush, Coney Island Park and Con-	
Dutchess	1832	course	1876
Dutchess	1836	Flushing	1893
Dutchess and Columbia	1866	Flushing	1893
Dutchess County	1890	Flushing and College Point	1896
Dutchess Extension	1849	Flushing and College Point Electric Street	1897
East Branch Connecting	1889	Flushing and College Point Street	1896
East Brooklyn Railroad	1874	Flushing, N. wtown and Long Island City	1899
East Brooklyn Railway	1873	Flushing, North Shore and Central	1874
East Brooklyn, Winfield and Newtown	1887	Flushing and North Side	1896
East Buffalo Terminal	1893	Flushing Village	1871
East Chester	1886	Flushing and Woodside	1894
Eastern Branch of the Dutchess and		Fonda and Fultonville	1876
Columbia	1868	Fonda, Johnstown and Gloversville	1897
Eastern Railroad Company of Long		Forestport	1896
Island	1879	Fort Ann and Mount Hope	1871
East Genesee Street and Seward Avenue	1871	Fort Edward, Glens Falls and Sandy Hill	1893
East Genesee Street and Seward Avenue		Fort Hamilton and Coney Island	1891
Railway	1891	Fort Hamilton and New York Elevated	1896
East New York, Bayside and Ozone Park	1895	Fort Plain and Richfield Springs	1897
East New York and Jamaica	1860	Fort Plain Street	1897
East New York and Jamaica Bay	1885	Fort Pond Bay	1893
East and North River	1881	Forty-second Street Crosstown	1877
East and North River	1884	Forty-second St. and Grand St. Ferry	1893
East River Bridge and Coney Island		Forty-second Street, Manhattanville and	
Transit	1881	St. Nicholas Avenue	1876
East River, Central Park and North		Fourteenth Street District Railway	1896
River	1899	Fourth Ward (Syracuse)	1896
East River and Connecticut Railway	1881	Frankfort and Ilion	1871
East River Connecting	1890	Franklin Avenue	1897
East River and Newtown	1885	Fredonia and Van Buren	1896
East River Tunnel	1885	Friendship	1881
East Side (Elmira)	1891	Fulton	1894
East Side and Mt. Vernon Railway	1891	Fulton and Cortland Street Ferry	1894
East Side and New Rochelle Patent Rail-		Fulton and Cortland Street Ferry Rail-	
way	1896	way	1894
East Side Railway	1896	Fulton Elevated	1896
East Side, of Rochester	1897	Fulton Ferry and Canarsie Bay	1896
East and West	1890	Fulton Ferry and Prospect Park	1897
East and West Ferries	1897	Fulton Ferry and Tenth Avenue	1896
Eighth Avenue	1835	Fulton and Montgomery County Electric	1896
Eighth Ward	1899	Fulton and Oswego Falls	1896
Eleventh Ward Street	1899	Fulton and Oswego Falls Street	1896
Elmira, Canandaigua and Niagara Falls	1837	Fulton Street Crosstown	1897
Elmira Connecting	1892	Fulton, Wall Street and Cortlandt Street	
Elmira, Cortland and Northern	1884	Ferries	1896
Elmira and Horseheads	1871	Gallupville	1899
Elmira, Jefferson and Canandaigua	1879	Garnerville	1876
Elmira and Lake Ontario	1886	Geddes Street Railway	1896
Elmira State Line	1872	Genesee Falls	1896
Elmira Transfer	1893	Genesee and Hudson	1899
Elmira and Williamsport	1892	Genesee Valley	1896
Elmira and Williamsport	1890	Genesee Valley Canal	1899
Erle and Black Rock	1892	Genesee Valley Junction	1899
Erle and Cattaraugus	1837	Genesee Valley Terminal	1899
Erle and Central New York	1883	Genesee and Water Street	1896
Erle and Genesee Valley	1898	Genesee and Wyoming Valley	1891
Erle International	1872	Genesee	1843
Erle and New England	1896	Genesee and Pittsford	1896
Erle and New York City	1832	Genesee and Canandaigua	1896
Erle and Niagara River	1882	Genesee and Cattaraugus	1897
Erle Railway	1861	Genesee Electric	1890
Erle, Rochester and Lake Ontario Ter-		Genesee and Hornellsville	1876
mnal	1884	Genesee, Hornellsville and Pine Creek	1876
Far Rockaway Beach	1881	Genesee and Ithaca	1870
Far Rockaway Branch	1896	Genesee, Ithaca and Athens	1874
Ferry Crosstown	1895	Genesee, Ithaca and Sayre	1877
Fifth Avenue	1884	Genesee and Lyons	1899
Fifth Ward	1885	Genesee and Southwestern	1871
Fifty-second, Fifty-third Streets and		Genesee, Southwestern and Hornellsville	1873
Boulevard	1896	Genesee Surface	1891
Fifty-ninth Street	1895	Genesee and Van Ettenville	1899
Fiftieth Street, Astoria Ferry and Central		Gilbert Elevated	1873
Park	1890	Gl-ba	1899
First Avenue and Jersey Ferries	1894	Glendale and East River	1874
Fish House and Amsterdam	1892	Glens Falls	1897
Fishkill	1898	Glens Falls, Sandy Hill and Fort Edward	1895

Name of road.	When formed.	Name of road.	When formed.
Glens Falls Street	1885	Houston, West Ave. and Pavonia Ferry ..	1874
Gloversville and Kingsboro	1871	Hudson Avenue	1867
Gloversville, Mayfield and Northville	1868	Hudson and Berkshire	1868
Gloversville and Northville	1872	Hudson and Boston	1865
Gloversville Street Electric	1891	Hudson Connecting	1887
Goshen and Albany	1842	Hudson and Delaware	1880
Goshen and Deckertown	1867	Hudson Electric	1888
Goshen and New Jersey	1837	Hudson and Kinderhook	1871
Gouverneur and Adirondack	1890	Hudson and Mohawk	1869
Gouverneur and Edwards	1890	Hudson River	1846
Gouverneur and Oswegatchie	1862	Hudson River and Boston	1886
Grand Street	1850	Hudson River West Shore	1867
Grand Street Central Transit	1884	Hudson and St. Lawrence	1872
Grand Street Ferry and Middle Village ..	1849	Hudson, Suspension Bridge and New Eng- land	1870
Grand Street and Maspeth	1859	Hudson Tunnel	1873
Grand Street and Newtown	1869	Hudson Tunnel of New York	1880
Grand Street, Prospect Park and Flatbush ..	1870	Hudson Tunnel Railway	1880
Grand View Beach	1889	Hudson Valley	1870
Gravesend, Flatlands, Flatbush and Brooklyn	1890	Hudson and West Shore	1860
Great Ausable	1828	Hunter's Point Avenue and Calvary Ceme- tery	1869
Great Valley and Bradford	1881	Hunter's Point and Flushing	1872
Greene	1838	Hunter's Point, Ravenw'd and Astoria ..	1864
Greene	1869	Hunter's Point and Rockaway Beach ..	1887
Greenpoint and Calvary	1865	Hunter's Point and South Side	1870
Greenpoint and Lorimer Street	1884	Huntington Street	1887
Greenpoint, Prospect Park and Greenwood ..	1864	Huntington Street	1880
Greenpoint and Williamsburgh	1864	Illon Street	1875
Greenwich and Johnsonville	1869	International	1861
Greenwich and Johnsonville	1874	Iron Hill	1878
Greenwich and Johnsonville Railway	1870	Ithaca	1888
Greenwood and Coney Island	1872	Ithaca and Athens	1884
Greenwood Lake and Port Jervis	1888	Ithaca and Auburn	1886
Hamilton Avenue and Prospect Park	1869	Ithaca and Cortland	1876
Hamilton Avenue, Prospect Park and Flatbush	1868	Ithaca and Genesee	1869
Hamilton Ferry and Canarsie	1870	Ithaca and Oswego	1882
Hancock and Pennsylvania	1889	Ithaca and Port Jervis	1886
Hancock and State Line	1880	Ithaca and Tonawanda	1866
Harlem Bridge, Morrisania and Fordham ..	1863	Jackson and Steinway Avenue Railroad Company of Long Island	1879
Harlem Brook Avenue and Woodstock ..	1880	Jamaica and Brooklyn Road	1880
Harlem Crostown	1885	Jamaica and Middle Village	1868
Harlem Extension	1870	Jamaica, Woodhaven and Brooklyn ..	1872
Harlem and Kings Bridge	1892	Jamestown	1871
Harlem, Mott Haven and Morris Avenue ..	1890	Jamestown	1868
Harlem River	1883	Jamestown and Northern	1886
Harlem River and High Bridge	1883	Jamestown Short-Line Railway	1886
Harlem River and Port Chester	1886	Jamestown Street	1868
Harlem River and Port Chester Rapid Transit	1890	Janesville	1886
Harlem River and Woodstock	1886	Jerome Avenue	1869
Harlem River and Tarrytown	1864	Jerome Park	1880
Harlem and Riverdale Park	1885	Jerome Park Branch	1876
Hartford and Connecticut Western	1881	Jersey City and Albany	1873
Hayt's Corners, Ovid and Willard	1882	Jersey City and Albany Railway	1879
Hempstead and Jamaica	1865	Jersey City and Albany Railroad Com- pany of the States of New York and New Jersey	1879
Hempstead and Smithtown	1873	Jersey Corners and First Avenue	1865
Hempstead and Rockaway	1870	Johnsonville & Rutland	1880
Henning Rapid Transit	1891	Johnstown	1886
Herkimer and Mohawk	1871	Johnstown, Gloversville and Kingsboro ..	1873
Herkimer, Newport and Poland Narrow Gauge	1880	Jordan and Skaneateles	1887
Herkimer, Newport and Poland Extension ..	1891	Junction	1870
Herkimer and Trenton	1886	Junction Railway	1865
Hicksville and Cold Springs Branch	1883	Kaaterskill	1866
Hicksville and Huntington	1885	Kaaterskill	1868
High Bridge	1866	Kearseville, Ausable Chasm and Lake Champlain	1868
High Bridge Elevated Incline	1883	Kearseville and Montreal	1869
Highland Junction	1881	Kinderhook and Hudson	1869
Highland Trans-Hudson	1881	Kinderhook, Valatie and Stuyvesant ..	1887
Hobart Branch	1884	Kinderhook, Valatie and Niverville	1887
Honeoye	1886	Kings Bridge Cable Railway	1886
Hoosac Tunnel and Saratoga Railway	1881	Kings Bridge, High Bridge and Forty- second Street	1864
Hornell Street	1888	Kings Bridge and Yonkers	1876
Hornellville	1888	Kings County	1878
Hornellville and Almond Street	1873	Kings County Central	1876
Hornellville and Canisteo	1892		
Hornellville and Cohocton Valley	1882		
Hornellville Electric	1891		
Hornellville and West Union	1889		
Horseheads and Elmira Avenue	1871		
Houston and Hoboken	1885		

Name of road.	When formed.	Name of road.	When formed.
Kings County Elevated	1879	Manhattan Surface	1887
Kingston City	1879	Mann's Boudoir Car	1888
Kingston City Electric	1892	Manheim and Salisbury	1884
Kingston and Rondout	1885	Maple Avenue	1887
Kingston Turnpike and Railroad Co.	1885	Marginal	1877
Kingston and Utica	1882	Marine	1878
Kingston, Warwick and Easton	1883	Maspeth Railroad and Bridge Company	1888
Lackawanna and Pittsburg	1883	Massena Springs and Fort Covington	1884
Lackawanna and Southwestern	1889	Mayville Extension	1881
Lackawanna and Susquehanna	1867	Mayville and Portland	1882
Lake Champlain and Moriah	1867	Mechanicville and Fort Edward	1880
Lake Champlain and Ogdensburgh	1885	Medina and Darien	1884
Lake Mahopac and Connecticut	1885	Medina and Lake Ontario	1886
Lake Ontario	1874	Melrose and West Morrisania	1886
Lake Ontario and Auburn	1886	Metropolitan Crosstown	1889
Lake Ontario, Auburn and New York	1812	Metropolitan Elevated	1872
Lake Ontario and Hudson River	1837	Metropolitan Elevated	1878
Lake Ontario Shore	1868	Metropolitan Railroad	1864
Lake Ontario Southern	1880	Metropolitan Railway	1864
Lake and River Improvement and Rail- road Land Company of the New York Wilderness	1865	Metropolitan Surface	1885
Lake Shore and Michigan Southern	1863	Metropolitan Surface	1886
Lansingburgh and Cohoes	1880	Metropolitan Transit	1867
Lansingburgh and Troy	1853	Metropolitan Transit	1872
Lansingburgh and Troy	1872	Metropolitan Underground	1891
Larchmont	1848	Middleburgh and Schoharie	1867
Laurel Hill, New Calvary and Lutheran Cemetery	1885	Middle Central	1878
Lawrenceville and Erie	1874	Middletown and Crawford	1868
Lebanon Springs	1852	Middletown Horse	1870
Lehigh and Hudson River	1882	Middletown Street	1889
Lehigh Valley	1882	Middletown, Unionville and Water Gap	1886
Lehigh Valley	1882	Middle Village	1867
Lewiston	1836	Middlesex Valley	1892
Lewiston and Youngstown	1862	Midwout, Amersfort and Coney Island	1877
Lexington Ave. and Fourteenth Street	1884	Mohawk and Adirondack	1891
Lexington Avenue and South Ferry	1886	Mohawk and Hudson	1886
Lincoln Park and Charlotte	1888	Mohawk and Illon	1870
Lima and Honeoye Falls	1892	Mohawk and Lake Erie Railway	1881
Little Falls and Doleville	1891	Mohawk and Moose River	1887
Little Falls, Dolgeville and Piseco Lake	1883	Mohawk and St. Lawrence Railroad Navi- gation Company	1887
Little Falls, Van Hornesville and Otsego Lake Narrow Gauge	1880	Mohawk and St. Lawrence	1890
Liverpool and Syracuse	1898	Mohawk and Susquehanna Valley	1897
Lockport	1885	Mohawk Valley	1851
Lockport and Batavia	1896	Mohawk Valley and Piseco	1893
Lockport and Buffalo	1871	Mohawk Valley and Northern	1890
Lockport and Niagara Falls	1834	Monroe and Greenwood Lake	1877
Lockport and Northern	1869	Montague Street Railway	1885
Lockport and Olcott Beach	1891	Montgomery and Erie	1866
Lockport and Youngstown	1896	Montgomery and Erie	1886
Locust Grove and Brighton Beach	1879	Monticello, Fallsburgh and New York	1884
Long Beach Marine	1881	Monticello and Port Jervis	1868
Long Island	1884	Montreal and Plattsburgh	1868
Long Island Boynton Bicycle	1891	Morris Avenue	1885
Long Island City and Calvary Cemetery	1871	Mount McGregor	1882
Long Island City and Flushing	1881	Mount McGregor	1889
Long Island City and Manhattan Beach	1883	Mount Prospect and Carroll Street	1873
Long Island City and Maspeth	1873	Mount Vernon and East Chester	1885
Long Island City and Newtown	1883	Mount Vernon and East Chester	1887
Long Island City and Sea Beach	1880	Mount Vernon and Yonkers	1885
Long Island City Shore	1874	Myrtle Avenue Branch	1881
Long Island Elevated Railway	1880	Nanuet and New City	1871
Long Island and New York Terminal	1892	Nassau	1885
Lyons Street Surface	1880	Nassau Cable	1884
Madison Ave. and Eighty-sixth Street	1885	Neversink Valley	1880
Madison Ave. and Twenty-third Street	1885	Newark	1896
Madison Avenue Underground	1880	New Brighton and Onondaga Valley	1869
Madison County	1829	Newburgh, Dutchess and Connecticut	1877
Mahopac Falls	1884	Newburgh	1889
Main and Ohio Street	1850	Newburgh	1882
Malden	1837	Newburgh	1888
Malden	1863	Newburgh and Kingston	1869
Malone and Canada	1883	Newburgh and Middletown	1886
Malone and St. Lawrence	1891	Newburgh and Midland	1870
Manhattan Beach Extension	1883	Newburgh and New York Railroad	1864
Manhattan Beach and West Brighton	1879	Newburgh and New York Railroad	1885
Manhattan Elevated	1875	Newburgh and Poughkeepsie	1867
Manhattan Railroad	1879	Newburgh and Walkkill Valley	1868
Manhattan Railway	1854	New England, New York and Pennsyl- vania	1878
Manhattan Railway	1867	New England, Lackawanna and Pitts- burgh	1883
		New England and Southwestern	1885

Name of road	When formed.	Name of road.	When formed.
New England and Western.....	1887	New York, Lake Erie and Western.....	1878
New Jersey and Hudson River.....	1881	New York and Long Beach.....	1880
New Jersey and New England.....	1873	New York and Long Island.....	1867
New Jersey and New York.....	1875	New York, Long Island and Rockaway.....	1879
New Jersey and New York Extension.....	1886	New York and Long Island Suburban.....	1891
New Jersey and Staten Island Junction.....	1886	New York and Mahopac.....	1871
New Rochelle and Pelham.....	1886	New York and Manhattan Beach.....	1877
New Rochelle Street Horse Railroad.....	1885	New York and Massachusetts.....	1867
New Rochelle Street Horse Railway.....	1885	New York and Newburgh.....	1854
Newtown and Flushing.....	1871	New York and New England.....	1873
New Williamsburgh and Flatbush.....	1873	New York, New Haven and Hartford.....	1878
New York.....	1860	New York and New Jersey.....	1873
New York and Albany.....	1882	New York and New Jersey Railway.....	1881
New York and Albany.....	1867	New York and New Jersey Terminal.....	1891
New York and Atlantic.....	1880	New York and New Jersey Tunnel.....	1888
New York and Atlantic Coast.....	1880	New York, New Jersey and Eastern.....	1888
New York, Bay Ridge and Jamaica.....	1876	New York and New Rochelle.....	1888
New York and Boston.....	1889	New York Northern.....	1886
New York and Boston.....	1884	New York Northern.....	1880
New York, Boston and Albany.....	1880	New York Northern.....	1888
New York, Boston, Albany and Schenectady.....	1880	New York and Northern.....	1887
New York and Boston Extension.....	1872	New York Northern Central.....	1885
New York, Boston and Montreal.....	1873	New York and North Salem.....	1871
New York and Boston Inland.....	1882	New York, Ontario and Western.....	1880
New York, Boston and Northern.....	1873	New York and Oswego Midland.....	1886
New York and Brighton Beach.....	1879	New York, Pennsylvania and Ohio.....	1880
New York and Brooklyn Elevated.....	1880	New York, Pennsylvania and Western.....	1881
New York and Brooklyn Marine.....	1880	New York and Queens County Tunnel.....	1891
New York, Brooklyn and Manhattan Beach.....	1885	New York Quick Transit.....	1874
New York, Brooklyn and Rockaway.....	1881	New York railway.....	1871
New York, Brooklyn and Sea Beach.....	1878	New York, Richfield Springs and Cooperstown.....	1880
New York, Brooklyn and Sea Shore.....	1877	New York and Rockaway.....	1871
New York and Brighton Beach.....	1878	New York and Rockaway Beach.....	1876
New York Cable.....	1884	New York and Rockaway Beach.....	1887
New York and Canada.....	1872	New York, Rockaway and Long Island.....	1880
New York Central.....	1883	New York, Rutland and Montreal.....	1888
New York District Railway.....	1885	New York and Sea Beach Railroad.....	1876
New York and Fallside.....	1885	New York and Sea Beach Railway.....	1888
New York Central and Hudson River.....	1869	New York, Sea Beach and Coney Island.....	1878
New York Central, Hudson River and Port Orange.....	1884	New York and South Beach.....	1891
New York Central Niagara River.....	1877	New York and South Side.....	1874
New York, Chicago and St. Louis Railway.....	1881	New York and South Mount Vernon.....	1888
New York, Chicago and St. Louis.....	1887	New York State.....	1873
New York City.....	1884	New York Suburban Railway.....	1886
New York City Croton.....	1883	New York Surface Railway.....	1886
New York City Undergound.....	1888	New York and Troy.....	1888
New York City and Northern.....	1878	New York Tunnel.....	1880
New York City Rapid Transit.....	1872	New York Underground.....	1880
New York City Suburban Surface.....	1889	New York Underground Extension.....	1874
New York and Coney Island.....	1879	New York, Utica and Ogdensburg.....	1870
New York and Connecticut.....	1846	New York and Westchester.....	1867
New York, Connecticut and Eastern, of New York.....	1890	New York and Westchester and Boston.....	1873
New York Connecting.....	1892	New York and Westchester County.....	1889
New York and Croton River.....	1871	New York, Westchester and Putnam.....	1887
New York and Croton River Extension.....	1872	New York, Westchester and Putnam.....	1887
New York, Danbury and Boston.....	1883	New York and Western.....	1883
New York and East River.....	1882	New York Western Midland.....	1873
New York Elevated.....	1871	New York, West Shore and Buffalo.....	1880
New York and Erie.....	1882	New York, West Shore and Buffalo Railway.....	1881
New York, Elmsford and White Plains.....	1892	New York, West Shore and Chicago.....	1870
New York and Flushing.....	1869	New York, White Plains and Amherst.....	1880
New York, Fordham and Bronx River.....	1883	New York and White Plains.....	1871
New York, Fort Hamilton and Coney Island.....	1880	New York, Woodhaven and Rockaway.....	1877
New York, Greenwood and Coney Island.....	1879	New York and Yonkers.....	1889
New York Harbor.....	1887	New York and Yonkers.....	1888
New York and Harlem.....	1881	Niagara Bridge and Canandaigua.....	1886
New York and Hempstead.....	1871	Niagara Falls.....	1871
New York and Hempstead Plains.....	1870	Niagara Falls Branch.....	1876
New York and Highland Suspension Bridge Company.....	1889	Niagara Falls, Buffalo and New York.....	1880
New York, Housatonic and Northern.....	1884	Niagara Falls and Lake Ontario.....	1880
New York and Jamaica.....	1869	Niagara Falls and La Salle.....	1880
New York, Kingston and Syracuse.....	1872	Niagara Falls and Lewiston.....	1880
New York, Lackawanna and Western.....	1880	Niagara Falls and Lewiston.....	1880
New York and Lake Mahopac.....	1861	Niagara Falls and Suspension Bridge.....	1888
		Niagara Falls and Whirlpool Railway.....	1888
		Niagara Junction.....	1888
		Niagara River.....	1888
		Niagara River Street.....	1880
		Niagara River and Erie.....	1889
		Niagara River and New York Air Line.....	1879

Name of road.	When formed.	Name of road.	When formed.
Niagara Shore Terminal	1891	Oswego and Utica	1886
Niagara Street	1859	Otis Elevating Railway	1895
Ninth Avenue	1859	Otsego	1889
North and East Greenbush	1873	Ottawa St. Lawrence and Schenectady	1889
North and East Greenbush	1882	Ottawa, Waddington and New York Rail- way and Bridge Company of New York	1884
North and East River	1885	Owasco River Railway	1881
Northern	1845	Oyster Bay Extension	1886
Northern Adirondack	1888	Park Avenue	1870
Northern Adirondack Extension	1888	Park Avenue	1882
Northern Air Line	1889	Peekskill Valley	1887
Northern Central New York	1887	Pelham Park	1884
Northern Extension of Rochester, Nunda and Pittsburg	1873	Pelham and Port Chester	1879
Northern of New Jersey	1854	Pelham and Travers Island	1889
Northern New York	1870	Pentfield and Canal	1887
North New York Junction	1891	Pennsylvania and Erie Coal and Railway Company	1875
Northern Railroad Company of Long Island	1881	Pennsylvania, Poughkeepsie and Boston	1887
Northern Blackwater and Railroad Co.	1846	Pennsylvania, Slatington and New Eng- land	1888
North Mount Vernon	1892	Pennsylvania and Sodus Bay	1870
North New York	1885	Penn Yan and Geneva	1875
North Park	1872	Penn Yan and New York	1877
North River	1880	People's	1880
North River	1881	People's Electric Street	1888
North River and Wall Street Ferry	1893	People's Rapid Transit	1888
North second Street and Middle Village	1871	People's Surface of Niagara Falls and Suspension Bridge	1891
North Side of Long Island	1887	People's Surface Railway	1885
North Side Railroad Co. of Rochester	1887	People's Syracuse	1887
North Side (Staten Island)	1871	Perry	1889
North Shore	1868	Pertin Amboy	1885
North Shore of Long Island	1870	Piermont and Nyack	1884
North Shore and Port Washington	1874	Piermont West shore	1887
North Third and Fleetwood	1890	Pine Plains and Albany	1879
Norwood and Montreal	1884	Pine Plains and Rhinebeck	1873
Nostrand Avenue and Park	1870	Pittsburg, Chautauqua and Lake Erie	1888
Nyack and Northern	1868	Pittsburg, Lackawanna and Northeastern Pittsburg, Titusville and Buffalo	1888
Oak Hill Iron	1890	Pittsburg and Montreal	1880
Oakka Valley	1888	Pittsburg and House's Point	1881
Ocean Bay and Sheephead Bay Railway	1881	Portage and Cuba Low Grade	1888
Ocean Palace Elevated	1877	Port Byron and Auburn	1889
Ocean Parkway Transit	1888	Port Chester and Tarrytown	1888
Ogdensburg	1867	Port Chester and Kye Beach Street	1887
Ogdensburg	1885	Port Chester, White Plains and Tarrytown Street	1888
Ogdensburg, Clayton and Rome	1883	Port Dickinson and Chenango River	1881
Ogdensburg and Lake Champlain	1864	Port Jervis Electric	1889
Ogdensburg and Morristown	1871	Port Jervis and Monticello	1875
Ogdensburg and Morristown	1877	Port Jervis, Monticello and New York	1888
Ogdensburg Street Railway	1885	Port Jervis and suburban	1889
Olean	1880	Port Morris and Westchester	1881
Olean, Bradford and Warren	1877	Port Richmond and Prohibition Park Electric	1891
Olean Street	1880	Potdam and Montreal	1881
Olean and Salamanca	1882	Potdam and Watertown	1888
Oneida	1885	Poughkeepsie Bridge	1888
Oneida Horse	1874	Poughkeepsie City	1886
Oneida, Oneonta and New York	1889	Poughkeepsie and Connecticut	1888
Oneida Street	1887	Poughkeepsie Connecting	1887
Oneida Valley	1864	Poughkeepsie and Delaware Valley	1887
One Hundred and Fifty-fifth Street	1896	Poughkeepsie and Eastern	1886
One Hundred and Sixteenth Street and Fort Lee Ferry	1885	Poughkeepsie Grand Junction	1879
One Hundred and Twenty-fifth Street	1871	Poughkeepsie and Grand Junction	1879
Oneonta	1887	Poughkeepsie, Hartford and Boston	1875
Oneonta and Earlville	1872	Poughkeepsie, Hartford and New England	1887
Oneonta and Earlville	1889	Poughkeepsie and Hudson	1889
Oneonta and Otego Valley	1887	Poughkeepsie and Southwestern	1888
Oneonta and Richfield Springs	1888	Poughkeepsie Terminal	1887
Onondaga Lake	1890	Prospect Park and Clarkson Street	1873
Ontario Southern	1876	Prospect Park and Coney Island	1887
Orange County	1877	Prospect Park and Coney Island	1874
Orange County	1889	Prospect Park and Flatbush	1875
Oranuing	1888	Prospect Park and Sea Side	1879
Oranuing Street	1894	Prospect Park and South Brooklyn	1888
Oswego	1881	Putnam and Dutchess	1871
Oswego, Binghamton and New York	1855	Queen City Street	1887
Oswego City (Street)	1870	Queens County	1871
Oswego City and Town	1872	Queens railway	1879
Oswego and Cortland	1886		
Oswego Northern and Eastern	1883		
Oswego and Rome	1883		
Oswego and Syracuse	1889		
Oswego and Troy	1884		

Name of road.	When formed.	Name of road.	When formed.
Rapid Transit.....	1890	Sacandaga Valley.....	1871
Rensselaerville and Berne.....	1869	Sacketts Harbor and Ellisburgh.....	1871
Rensselaer and Saratoga.....	1832	Sacketts Harbor, Rome and New York.....	1890
Rhinebeck and Connecticut.....	1870	Sacketts Harbor and Saratoga.....	1832
Richfield Springs and Cherry Valley.....	1882	Sacketts Harbor and Watertown.....	1835
Richfield Springs and Otsego Lake.....	1866	Sackett Street.....	1866
Richmond County.....	1835	St. Lawrence Valley.....	1873
Riker Avenue and Sandford's Point.....	1886	St. Nicholas Avenue and Crostown.....	1885
River Bridge.....	1801	Salamanca, Bedford and Allegany River.....	1881
Rochester.....	1833	Salamanca Electric Surface.....	1900
Rochester.....	1900	Salamanca and Warren.....	1881
Rochester Cable.....	1887	Salina and Oakwood Railway.....	1886
Rochester and Canal.....	1831	Salina and Port Watson.....	1829
Rochester and Charlotte.....	1836	Saranac and Lake Placid.....	1900
Rochester and Charlotte.....	1881	Saratoga Electric.....	1889
Rochester and Charlotte Boulevard.....	1873	Saratoga and Fort Edward.....	1832
Rochester City and Brighton.....	1862	Saratoga and Hudson River.....	1864
Rochester Electric.....	1887	Saratoga Lake.....	1880
Rochester City and Brighton Terminal.....	1887	Saratoga Street.....	1887
Rochester and Genesee Valley.....	1851	Saratoga and Montgomery.....	1836
Rochester and Genesee Valley Canal.....	1879	Saratoga and Mt. McGregor.....	1882
Rochester and Glen Haven.....	1887	Saratoga, Mt. McGregor and Lake George.....	1882
Rochester and Heneoye Valley.....	1888	Saratoga Rapid Transit.....	1900
Rochester, Hornellsville and Lackawanna.....	1886	Saratoga and Schenectady.....	1881
Rochester, Hornellsville and Pine Creek.....	1872	Saratoga, Schuylerville and Hoosac Tunnel.....	1870
Rochester and Irondequoit.....	1878	Saratoga Springs and Schuylerville.....	1838
Rochester and Lake Beach.....	1888	Saratoga and St. Lawrence.....	1885
Rochester and Lake Ontario.....	1852	Saratoga and St. Lawrence Extension.....	1891
Rochester and Lake Ontario.....	1879	Saratoga and Washington.....	1884
Rochester, Lake Side and Braddocks Bay.....	1881	Saratoga and Whitehall.....	1835
Rochester and Lockport.....	1837	Sauquoit Valley Electric Street.....	1900
Rochester, Lockport and Niagara Falls.....	1850	Schenectady.....	1836
Rochester, New York and Pennsylvania.....	1880	Schenectady and Albany.....	1890
Rochester, New York and Pennsylvania.....	1881	Schenectady, Albany and North Adams.....	1898
Rochester, Nunda and Pennsylvania.....	1870	Schenectady and Catskill.....	1846
Rochester, Nunda and Pennsylvania.....	1872	Schenectady and Catskill.....	1863
Rochester, Nunda and Pennsylvania Extension.....	1872	Schenectady City.....	1873
Rochester, Nunda and Pittsburg.....	1877	Schenectady and Duaneburgh.....	1873
Rochester and Ontario Belt.....	1882	Schenectady and Mechanicville.....	1867
Rochester and Pine Creek.....	1870	Schenectady and Ogdensburg.....	1873
Pocheater and Pittsburg.....	1854	Schenectady and Ogdensburg Narrow Gauge.....	1892
Rochester and Pittsburg.....	1881	Schenectady and Susquehanna.....	1846
Rochester and Pittsburg.....	1882	Schenectady and Susquehanna.....	1869
Rochester and Southern.....	1852	Schenectady and Susquehanna.....	1870
Rochester and Southern.....	1881	Schenectady and Troy.....	1886
Rochester State Line.....	1870	Schenectady and Utica Railway.....	1865
Rochester and Syracuse.....	1850	Schoharie and Otsego.....	1882
Rochester Terminal.....	1886	Schoharie Street.....	1872
Rochester and Windsor Beach Railway.....	1881	Schoharie Valley.....	1865
Rockaway Beach and Far Rockaway Marine.....	1879	Schoharie Valley.....	1874
Rockaway Beach Railroad.....	1871	Schoharie Valley Railway.....	1890
Rockaway Beach Transit.....	1881	Schuylerville and Fort Edward.....	1870
Rockaway and Brooklyn.....	1863	Schuylerville and Moreau.....	1870
Rockaway Electric.....	1885	Schuylerville and Upper Hudson.....	1869
Rockaway Elevated.....	1878	Schuylerville and Upper Hudson.....	1872
Rockaway Railway.....	1871	Scottsville and Canandaigua.....	1836
Rockaway Surf.....	1880	Scottsville and LeRoy.....	1886
Rockaway Village.....	1886	Sea Beach and Brighton.....	1886
Rockland Central.....	1870	Sea Beach and Sheephead Bay.....	1886
Rockland Central Extension.....	1872	Sea Breeze Avenue.....	1881
Rockland Lake.....	1885	Sea Cliff Inclined Cable.....	1885
Rockland Lake and Valley Cottage.....	1882	Sea Side Elevated.....	1880
Rome and Boonville.....	1882	Sea Side and Brooklyn Bridge Elevated.....	1900
Rome and Carthage.....	1884	Sea Side Transit.....	1880
Rome City.....	1885	Sea View.....	1886
Rome and Clinton.....	1869	Sea View of Coney Island.....	1880
Rome and Port Ontario.....	1837	Secord Avenue.....	1853
Rome Street.....	1874	Sedge Bank.....	1876
Rome and Sylvan Beach.....	1888	Seneca County.....	1891
Rome, Watertown and Ogdensburg.....	1860	Seneca Falls and Cayuga Lake.....	1886
Rome, Watertown and Ogdensburg Ter- minal.....	1886	Seneca Falls, Restvale and Cayuga Lake Street.....	1886
Rondout and Kingston.....	1863	Seneca Falls and Waterloo.....	1886
Rondout and Oswego.....	1846	Seneca Lake Branch.....	1886
Rondout and Port Jervis Railroad.....	1865	Seventh Ward Railway.....	1886
Rondout Valley.....	1890	Sharon and Root.....	1886
Roslyn and Huntington.....	1874	Sheephead Bay and Coney Island.....	1877
Rutland and Whitehall.....	1886	Sheephead Bay and Sea Shore.....	1885
Rye Lake.....	1874	Silver Creek and Dunkirk.....	1890
Rye and Westchester.....	1871	Silver Lake.....	1870

Name of road.	When formed.	Name of road.	When formed.
Silver Lake.....	1877	Syracuse and Geddes.....	1883
Sixth Avenue.....	1851	Syracuse, Geneva and Corning.....	1875
Skaneateles.....	1836	Syracuse, Geneva and Corning.....	1885
Skaneateles.....	1846	Syracuse Junction.....	1873
Skaneateles and Jordan.....	1841	Syracuse Mineral Springs.....	1867
Smithtown and Port Jefferson.....	1870	Syracuse Northern.....	1868
Sodus Bay and Corning.....	1872	Syracuse and Northern.....	1875
Sodus Bay, Corning and New York.....	1870	Syracuse and Northwestern.....	1869
Sodus Bay and Southern.....	1863	Syracuse and Northwestern.....	1874
Sodus Point and Southern.....	1862	Syracuse and Onondaga.....	1886
South Beach.....	1880	Syracuse and Onondaga.....	1863
South Avenue Surface.....	1880	Syracuse and Ontario.....	1882
South Brooklyn.....	1878	Syracuse, Ontario and New York.....	1883
South Brooklyn and Bergen Street.....	1863	Syracuse and Onondaga Lake.....	1891
South Brooklyn and Flatbush.....	1866	Syracuse, Phoenix and Ontario.....	1883
South Brooklyn Central.....	1877	Syracuse, Phoenix and Oswego.....	1872
South Brooklyn Central.....	1887	Syracuse, Phoenix and Oswego.....	1885
South Brooklyn Railroad and Terminal.....	1887	Syracuse, Phoenix and Oswego.....	1886
South Brooklyn Street.....	1846	Syracuse and Rochester Direct.....	1850
South Brooklyn and Park.....	1870	Syracuse and South Bay.....	1886
South Cairo and East Durham.....	1881	Syracuse and Southern.....	1866
South Ferry.....	1874	Syracuse and Southwestern.....	1876
South Ferry and Prospect Park.....	1874	Syracuse and Southwestern.....	1877
South Ferry Railroad Company.....	1880	Syracuse Stone.....	1886
South Ferry and Sea Side Direct Transit.....	1881	Syracuse and Utica.....	1886
South Park.....	1880	Syracuse, Union Street.....	1889
Southern Boulevard.....	1885	Syracuse, Utica Direct.....	1886
Southern Central.....	1866	Syracuse, Union Street.....	1889
Southern Hempstead Branch.....	1875	Tenth Avenue and Grand Street.....	1886
Southern of Long Island.....	1874	Terminal Underground.....	1886
Southern Westchester.....	1871	Terminal Union.....	1889
Southfield Branch.....	1868	Third Avenue.....	1853
South Side Connection.....	1868	Third Avenue and Fordham.....	1861
South Side of Long Island.....	1861	Third Street (Newburgh).....	1887
Speers' Quick Transit.....	1879	Third Ward Railway.....	1886
Springville and Sardinia.....	1878	Thirty-eighth and Thirty-ninth Streets.....	1884
Spuyten Duysil and Port Morris.....	1867	Crosstown.....	1885
Squaw Island.....	1884	Thirty-first Street.....	1885
State Line and Eastern.....	1870	Thirty-fourth Street.....	1884
State Line and Stony Point.....	1886	Thirty-fourth St Ferry and Eleventh Avenue.....	1885
Staten Island.....	1836	Thirty-second Street.....	1880
Staten Island.....	1852	Tillie Foster Mine.....	1889
Staten Island.....	1873	Ticonderoga.....	1889
Staten Island Belt Line.....	1887	Tioga and Erie.....	1866
Staten Island Central.....	1871	Tioga and Savonia.....	1875
Staten Island Horse.....	1866	Tonawanda.....	1832
Staten Island Northern.....	1886	Tonawanda, Genesee Valley and Pine Creek.....	1882
Staten Island North and South Shore.....	1881	Tonawanda Electric.....	1880
Staten Island Rapid Transit.....	1880	Tonawanda Street.....	1880
Staten Island Sea Beach.....	1864	Tonawanda Valley.....	1880
Staten Island Shore.....	1864	Tonawanda Valley.....	1881
Staten Island Shore.....	1869	Tonawanda Valley and Cuba.....	1881
Staten Island Terminal.....	1883	Tonawanda Valley Extension.....	1881
Steinway (Long Island City).....	1892	Tonawanda, Wilcox and Genesee Valley.....	1882
Steinway Avenue and Bowery Bay.....	1883	Transit.....	1872
Steinway and Hunter's Point.....	1874	Trenton and Sacketts Harbor.....	1887
Steinway and Hunter's Point.....	1883	Troy and Alba.....	1866
Sterling Mountain.....	1864	Troy and Averill Park.....	1886
Stillwater and Mechanicville.....	1882	Troy and Bennington.....	1851
St. Lawrence.....	1802	Troy and Boston.....	1849
St. Lawrence and Adirondack.....	1891	Troy and Chatham.....	1882
St. Regis and Salmon River.....	1892	Troy City.....	1867
Stony Clove and Catskill Mountain.....	1881	Troy and Cohoes.....	1862
Suburban Rapid Transit.....	1875	Troy and Greenbush.....	1845
Suburban Traction.....	1892	Troy and Lansingburgh.....	1860
Suspension Bridge and Erie Junction.....	1868	Troy and Lansingburgh.....	1880
Syracuse.....	1886	Troy and New England.....	1889
Syracuse and Baldwinville.....	1886	Troy and Rutland.....	1849
Syracuse and Binghamton.....	1857	Troy and Saratoga.....	1871
Syracuse, Binghamton and New York.....	1857	Troy, Saratoga and Northern.....	1886
Syracuse, Binghamton and New York.....	1885	Troy and Stockbridge.....	1886
Syracuse Branch New York, Utica and Ogdensburg.....	1871	Troy and Susquehanna.....	1871
Syracuse and Chenango.....	1873	Troy Turnpike and Railroad.....	1831
Syracuse and Chenango Valley.....	1868	Troy Union.....	1851
Syracuse, Chenango and New York.....	1877	Troy and Utica.....	1853
Syracuse Connecting Railway.....	1866	Tunnel Extension.....	1882
Syracuse Consolidated Street.....	1890	Twenty-eighth and Thirtieth Street.....	1884
Syracuse, Cortland and Binghamton.....	1886	Twenty-eighth and Twenty-ninth Streets.....	1885
Syracuse, Eastwood Heights and DeWitt.....	1880	Crosstown.....	1885
Syracuse Electric.....	1890	Twenty-third Street.....	1860
Syracuse, Fayetteville and Manlius.....	1867	Twenty-third Street.....	1872

Name of road.	When formed.	Name of road.	When formed.
Twenty-third Street District Railway.....	1883	Washington Street and State Asylum.....	1873
Tyrone and Geneva.....	1887	Water and Clinton Street.....	1873
Ulster County.....	1886	Waterford and Cohoes.....	1883
Ulster and Delaware.....	1875	Waterford and Cohoes.....	1883
Unadilla and Schoharie.....	1886	Watertown and Brownville Street.....	1890
Unadilla Valley.....	1890	Watertown and Cape Vincent.....	1886
Union.....	1851	Watertown and Rome.....	1886
Union (Buffalo).....	1889	Watertown Street Railway.....	1887
Union Electric of Saratoga.....	1890	Watervliet and Schenectady.....	1886
Union Elevated.....	1886	Watervliet Turnpike and Railroad.....	1886
Union Passenger Railway and Transportation Company of New York.....	1885	Watkins and Havana Street.....	1873
Union Pneumatic Railway.....	1867	Waverly and State Line.....	1887
Union Railroad Company.....	1857	Wellsville, Bolivar and Eldred.....	1881
Union Street.....	1890	Wellsville, Coudersport and Pine Creek.....	1889
Union of the City of Brooklyn.....	1884	Wellsville and Fillmore.....	1889
Union (Syracuse).....	1853	Wellsville, Honeoye and Ceres.....	1886
Union and Syracuse Straight Line.....	1852	West Brooklyn.....	1897
Union Terminal of the City of Buffalo.....	1884	West Brooklyn Electric.....	1890
Union Village and Johnsonville.....	1887	West Davenport.....	1891
Union (of Westchester).....	1859	Westchester.....	1883
United States and Canada.....	1883	Westchester County.....	1886
United States and Canada.....	1888	Westchester County.....	1878
United States Harvey-way Construction Company.....	1882	Westchester County.....	1884
Upper Hudson.....	1873	Westchester County and New York City.....	1890
Up-town Fifth Avenue.....	1885	Westchester Electric.....	1891
Utica, Adirondack and Saratoga.....	1888	Westchester and Putnam.....	1891
Utica Belt Line.....	1886	Westchester Railway.....	1881
Utica and Binghamton.....	1853	West End and Glenwood.....	1876
Utica and Black River.....	1861	West Farms and Westchester Traction.....	1892
Utica and Black River.....	1883	Western New York and Pennsylvania.....	1887
Utica and Black River.....	1886	Westfield and Chautauqua.....	1886
Utica, Chenango and Cortland.....	1870	Westport and Kingdom.....	1888
Utica, Chenango and Susquehanna Valley.....	1866	West Shore.....	1883
Utica City.....	1862	West Shore.....	1885
Utica, Clinton and Binghamton.....	1868	West Shore Hudson River.....	1888
Utica and Deerfield Street.....	1871	West Shore and International Bridge.....	1889
Utica and Fair-ground.....	1875	West Side.....	1854
Utica, Georgetown and Elmira.....	1870	West Side.....	1887
Utica, Horseheads and Elmira.....	1870	West Side (Elmira).....	1891
Utica and Ithaca Narrow Gauge.....	1877	West Side Elevated Patent Railway.....	1888
Utica, Ithaca and Elmira.....	1873	West Side (New York).....	1892
Utica, Ithaca and Elmira Railway Co.....	1878	West Side of Rochester.....	1887
Utica and Mohawk.....	1874	West Side and Yonkers Patent.....	1886
Utica and Mohawk (Street).....	1869	West Troy and Green Island.....	1870
Utica and Schenectady.....	1833	West Water Street.....	1890
Utica and Susquehanna.....	1832	Williamsport and Binghamton.....	1887
Utica and Syracuse Air Line.....	1880	Wilson Terminal.....	1899
Utica and Syracuse Railway.....	1885	Wharton Valley.....	1898
Utica and Unadilla Valley.....	1888	Whitehall and Plattsburgh.....	1853
Utica and Waterville.....	1854	Whitehall and Plattsburgh.....	1886
Utica and Waterville.....	1867	Whitehall and Rutland.....	1883
Valatia and Kinderhook Street.....	1889	Whitestone and Westchester.....	1873
Van Nest, West Farms and Westchester Traction.....	1892	Williamsbridge, Woodlawn and Westchester.....	1891
Valley.....	1869	Williamsbridge and Westchester Traction.....	1892
Van Brunt Street and Erie Basin.....	1881	Williamsburgh and Coney Island.....	1884
Wakefield and Westchester Traction.....	1892	Williamsburgh and Flatbush.....	1886
Wall Street Ferry.....	1888	Williamsburgh and Newtown.....	1886
Walkkill Valley.....	1877	Williamsport and Elmira.....	1860
Walkkill Valley Railway.....	1886	Williamstown and Redfield.....	1885
Warren County.....	1832	Windsor Beach and Ontario.....	1887
Warren, Sugar Grove and Mayville.....	1885	Woodlawn and Butternut.....	1886
Warsaw and Le Roy.....	1854	Yates Avenue and Flatbush.....	1890
Warwick.....	1837	Yonkers.....	1873
Warwick Valley.....	1860	Yonkers.....	1885
Washington Bridge, Tremont and Westchester.....	1890	Yonkers, Mt. Vernon, Pelham and New Rochelle.....	1891
Washington County.....	1887	Yonkers and New York.....	1864
Washington County Central.....	1855	Yonkers Rapid Transit.....	1879
Washington Street, Asylum and Park.....	1887	Yonkers Street.....	1886
		Youngstown and Buffalo.....	1888

LAWS APPLICABLE TO RAILROAD COMPANIES.

[COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.]

**FIRST—CHAPTER 95, LAWS OF 1890, KNOWN AS THE
“CONDEMNATION LAW.”**

**SECOND—CHAPTER 563, LAWS OF 1890, KNOWN AS THE
“GENERAL CORPORATION LAW.”**

**THIRD—CHAPTER 564, LAWS OF 1890, KNOWN AS THE
“STOCK CORPORATION LAW.”**

**FOURTH—CHAPTER 565, LAWS OF 1890, KNOWN AS THE
“RAILROAD LAW.”**

**INCLUDING ALL AMENDMENTS TO SAID LAWS MADE BY
THE LEGISLATURES OF 1891 AND 1892.**

(Of the above-named acts the first went into effect May 1, 1890; the other three went into effect May 1, 1891.)

To these are appended such other laws of a general character, applicable to railroad companies and the management of their roads, as were in effect prior to May 1, 1891, and which are not in terms repealed by the provisions of any of the above-mentioned acts; including certain acts relative to “Town-Bonding” and “Taxation,” contained in the compilation of laws heretofore published by the Board in volume 1 of its annual report. To the above have also been added the Rapid Transit Act (so-called), being chapter 4, Laws of 1891, and the Interstate Commerce Act (so called).

Chapter twenty-three of the Code of Civil Procedure.

CHAPTER 95, LAWS OF 1890.

AN ACT to amend the Code of Civil Procedure.

SUPPLEMENTAL PROVISIONS.

TITLE I.

PROCEEDINGS FOR THE CONDEMNATION OF REAL PROPERTY.

SECTION 3357. **Condemnation law.**—This title shall be known as the condemnation law.

§ 3358. **Terms used defined.**—The term “person,” when used herein, includes a corporation, joint stock association, the state and a political division thereof, as well as a natural person; the term “real property,” any right, interest or easement therein or appurtenance thereto; and the term “owner,” all persons having any estate, interest, or easement in the property to be taken, or any lien, charge or incumbrance thereon. The person instituting the proceedings shall be termed the plaintiff; and the person against whom the proceeding is brought, the defendant.

§ 3359. **Title to real estate, how acquired.**—Whenever any person is authorized to acquire title to real property, for a public use by condemnation the proceeding for that purpose shall be taken in the manner prescribed in this title.

§ 3360. **Petition to supreme court; petition, what to contain.**—The proceeding shall be instituted by the presentation of a petition by the plaintiff to the supreme court setting forth the following facts:

1. His name, place of residence, and the business in which engaged; if a corporation or joint stock association, whether foreign or domestic, its principal place of business within the state, the names and places of residence of its principal officers, and of its directors, trustees or board of managers, as the case may be, and the object or purpose of its incorporation or associations;* if a political division of the state

* So in the original.

the names and places of residence of its principal officers; and if the state, the name and place of residence of the officer acting in its behalf in the proceeding.

2. A specific description of the property to be condemned and its location, by metes and bounds, with reasonable certainty.

3. The public use for which the property is required and a concise statement of the facts showing the necessity of its acquisition for such use.

4. The names and places of residence of the owners of the property; if an infant, the name and place of residence of his general guardian, if he has one, if not, the name and place of residence of the person with whom he resides; if a lunatic, idiot, or habitual drunkard, the name and place of residence of his committee or trustee, if he has one; if not, the name and place of residence of the person with whom he resides. If a non-resident, having an agent or attorney residing in the state authorized to contract for the sale of the property, the name and place of residence of such agent or attorney; if the name or place of residence of any owner can not after diligent inquiry be ascertained, it may be so stated with a specific statement of the extent of the inquiry which has been made.

5. That the plaintiff has been unable to agree with the owner of the property for its purchase and the reason of such inability.

6. The value of the property to be condemned.

7. A statement that it is the intention of the plaintiff, in good faith, to complete the work or improvement, for which the property is to be condemned; and that all the preliminary steps required by law have been taken to entitle him to institute the proceeding.

8. A demand for relief, that it may be adjudged that the public use requires the condemnation of the real property described, and that the plaintiff is entitled to take and hold such property for the public use specified, upon making compensation therefor, and that commissioners of appraisal be appointed to ascertain the compensation to be made to the owners for the property so taken.

§ 3361. Notice of presentation of petition ; service of petition and notice. — There must be annexed to the petition a notice of the time and place at which it will be presented to a special term of the supreme court, held in the judicial district where the property or some portion of it is situated, and a copy of the petition and notice must be served upon all the owners of the property at least eight days prior to its presentation.

§ 3362. Service, how made.—Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made, and all the provisions of articles one and two of title one of chapter five of this act, which relate to the service of a summons, either personally or in any other way, and the mode of proving service, shall apply to the service of the petition and notice. If the defendant has an agent or attorney residing in this state, authorized to contract for the sale of the real property described in the petition, service upon such agent or attorney will be sufficient service upon such defendant. In case the defendant is an infant of the age of fourteen years or upwards, a copy of the petition and notice shall also be served upon his general guardian, if he has one, if not, upon the person with whom he resides.

§ 3363. Duty of general guardian, committee or trustee ; court when to appoint guardian ad litem ; when attorney for defendant.—If a defendant is an infant, idiot, lunatic or habitual drunkard, it shall be the duty of his general guardian, committee or trustee, if he has one, to appear for him upon the presentation of the petition and attend to his interests, and in case he has none, or in case his general guardian, committee or trustee fails to appear for him, the court shall, upon the presentation of the petition and notice, with proof of service, without further notice, appoint a guardian ad litem for such defendant, whose duty it shall be to appear for him and attend to his interest in the proceeding, and, if deemed necessary to protect his rights, the court may require a general guardian, committee or trustee, or a guardian ad litem to give security in such sum and with such sureties as the court may approve. If a service other than personal has been made upon any defendant, and he does not appear upon the presentation of the petition, the court shall appoint some competent attorney to appear for him and attend to his interests in the proceeding.

§ 3364. Appearance of parties ; service of papers.—The provisions of the law and of the rules and practice of the court, relating to the appearance of parties in person or by attorney in actions in the supreme court, shall apply to the proceeding from and after the service of the petition, and all subsequent orders, notices and papers may be served upon the attorney appearing and upon a guardian ad litem in the same manner and with the same effect as the service of papers in an action in the supreme court may be made.

§ 3365. **Answer to petition.** — Upon the presentation of the petition and notice with proof of service thereof, an owner of the property may appear and interpose an answer, which must contain a general or specific denial of each material allegation of the petition controverted by him, or of any knowledge or information thereof sufficient to form a belief, or a statement of new matter constituting a defense to the proceeding.

§ 3366. **Verification of petition and answer.** — A petition or answer must be verified, and the provisions of this act relating to the form and contents of the verification of pleadings in courts of record, and the persons by whom it may be made, shall apply to the verification.

§ 3367. **Trial of issue and decision thereon.** — The courts shall try any issue raised by the petition and answer at such time and place as it may direct, or it may order the same to be referred to a referee to hear and determine, and upon such trial the court or referee shall file a decision in writing, or deliver the same to the attorney for the prevailing party, within twenty days after the final submission of the proofs and allegations of the parties, and the provisions of this act relating to the form and contents of decisions upon the trial of issues of fact by the court or a referee, and to making and filing exceptions thereto, and the making and settlement of a case for the review thereof upon appeal, and to the proceedings which may be had, in case such decision is not filed or delivered within the time herein required, and to the powers of the court and referee upon such trial, shall be applicable to a trial and decision under this title.

§ 3368. **Provisions applicable.** — The provisions of title one of chapter eight of this act shall also apply to proceedings had under this title.

§ 3369. **Judgment, entry of; in favor of plaintiff; commissioners of appraisal, appointment of.** — Judgment shall be entered pursuant to the direction of the court or referee in the decision filed. If in favor of the defendant, the petition shall be dismissed with costs, to be taxed by the clerk at the same rates as are allowed of course to a defendant prevailing in an action in the supreme court, including the allowance for proceedings before and after notice of trial. If the decision is in favor of the plaintiff, or if no answer has been interposed and it appears from the

petition that he is entitled to the relief demanded, judgment shall be entered, adjudging that the condemnation of the real property described is necessary for the public use, and that the plaintiff is entitled to take and hold the property for the public use specified, upon making compensation therefor, and the court shall thereupon appoint three disinterested and competent freeholders, residents of the county where the real property or some part of it is situated, or of some adjoining county, commissioners to ascertain the compensation to be made to the owners for the property to be taken for the public use specified, and fix the time and place for the first meeting of the commissioners. If a trial has been had, at least eight days notice of such appointment must be given to all defendants who have appeared.

§ 3370. Duty of commissioners; report; compensation.

—The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them, from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without unnecessary delay ascertain and determine the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use, for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any; and they shall each be entitled to six dollars for services, for every day they are actually engaged in the performance of their duties, and their necessary expenses, to be paid by the plaintiff.

§ 3371. Confirmation of report ; rehearing before commissioners ; final order ; deposit of money deemed payment.— Upon filing the report of the commissioners, any party may move for its confirmation at a special term, held in the district where the property or some part of it is situated, upon notice to the other parties who have appeared, and upon such motion, the court may confirm the report, or may set it aside for irregularity, or for error of law in the proceedings before the commissioners, or upon the ground that the award is excessive or insufficient. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report, as are herein prescribed for the confirmation of the first report. If the report is confirmed, the court shall enter a final order in the proceedings, directing that compensation shall be made to the owners of the property, pursuant to the determination of the commissioners, and that upon payment of such compensation, the plaintiff shall be entitled to enter into the possession of the property condemned, and take and hold it for the public use specified in the judgment. Deposit of the money to the credit of, or payable to the order of the owner, pursuant to the direction of the court, shall be deemed a payment within the provisions of this title.

§ 3372. Offer to purchase by plaintiff ; notice of acceptance of offer ; costs and allowances.— In all cases where the owner is a resident and not under legal disability to convey title to real property the plaintiff, before service of his petition and notice, may make a written offer to purchase the property at a specified price, which must within ten days thereafter be filed in the office of the clerk of the county where the property is situated ; and which can not be given in evidence before the commissioners ; or considered by them. The owner may at the time of the presentation of the petition, or at any time previously, serve notice in writing of the acceptance of plaintiff's offer, and thereupon the plaintiff may, upon filing the petition, with proof of the making of the offer and its acceptance, enter an order that upon payment of the compensation agreed upon, he may enter into possession of the real property described in the petition, and take and hold it for the public use therein specified. If the offer is not accepted, and the compensation awarded by the commissioners does not exceed the amount of the offer with interest from the time it was made, no costs

shall be allowed to either party. If the compensation awarded shall exceed the amount of the offer with interest from the time it was made, or if no offer was made, the court shall, in the final order, direct that the defendant recover of the plaintiff the costs of the proceeding, to be taxed by the clerk at the same rate as is allowed, of course, to the defendant when he is the prevailing party in an action in the supreme court, including the allowances for proceedings before and after notice of trial and the court may also grant an additional allowance of costs, not exceeding five per centum upon the amount awarded. The court shall also direct in the final order what sum shall be paid to the general or special guardian, or committee or trustee of an infant, idiot, lunatic or habitual drunkard, or to an attorney appointed by the court to attend to the interests of any defendant upon whom other than personal service of the petition and notice may have been made, and who has not appeared, for costs, expenses and counsel fees, and by whom or out of what fund the same shall be paid. If a trial has been had, and all the issues determined in favor of the plaintiff, costs of the trial shall not be allowed to the defendant, but the plaintiff shall recover of any defendant answering the costs of such trial caused by the interposition of the unsuccessful defense, to be taxed by the clerk at the same rate as is allowed to the prevailing party for the trial of an action in the supreme court.

§ 3373. Compensation awarded, etc., to be docketed as a judgment; delivery of possession; issue of writ of assistance.— Upon the entry of the final order, the same shall be attached to the judgment roll in the proceedings, and the amount directed to be paid, either as compensation to the owners, or for the costs or expenses of the proceedings, shall be docketed as a judgment against the person who is directed to pay the same, and it shall have all the force and effect of a money judgment in an action in the supreme court, and collection thereof may be enforced by execution and by the same proceedings as judgments for the recovery of money in the supreme court may be enforced under the provisions of this act. When payment of the compensation awarded, and costs of the proceeding, if any, has been made, as directed in the final order, and a certified copy of such order has been served upon the owner, he shall upon demand of the plaintiff, deliver possession thereof to him, and in case possession is not delivered when demanded, the plaintiff may apply to the court without notice, unless the court shall require notice to be given, upon proof of such payment and of service of the copy order, and of the demand and non-compliance therewith, for a writ of

assistance, and the court shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

• § 3374. **Abandonment of proceedings by plaintiff.**— Within thirty days after the entry of the final order the plaintiff may abandon the proceedings, by filing and serving a written notice of his determination to do so, and paying the fees and expenses of the commissioners, and the costs and expenses directed to be paid in such order; and thereupon payment of the amount awarded for compensation shall not be enforced, but in such case the plaintiff shall not renew proceedings to acquire title to such lands or any part thereof without a tender or deposit in court of the amount of the award and interest thereon.

§ 3375. **Appeal from final order; stay of proceedings.**— Appeal may be taken to the general term of the supreme court from the final order, within the time provided for appeals from orders by title four of chapter twelve of this act; and all the provisions of such chapter relating to appeals to the general term from orders of the special term shall apply to such appeals. Such appeal will bring up for review all the proceedings subsequent to the judgment, but the judgment and proceedings antecedent thereto may be reviewed on such appeal, if the appellant states in his notice that the same will be brought up for review, and exceptions shall have been filed to the decision of the court or the referee, and a case or a case and exceptions shall have been made, settled and allowed, as required by the provisions of this act, for the review of the trial of actions in the supreme court without a jury. The proceedings of the plaintiff shall not be stayed upon such an appeal, except by order of the court, upon notice to him, and the appeal shall not effect his possession of the property taken, and the appeal of a defendant shall not be heard except on his stipulation not to disturb such possession.

§ 3376. **Appeal from judgment in favor of defendant.**— If a trial has been had and judgment entered in favor of the defendant, the plaintiff may appeal therefrom to the general term within the time provided for appeals from judgments by title four of chapter twelve of this act, and all the provisions of such chapter relating to appeals from judgments shall apply to such appeals; and on the hearing of the appeal the general term may affirm, reverse or modify the judgment, and in case of reversal may grant a new trial, or direct that judgment be entered in favor of the plaintiff. If the judgment is affirmed, costs shall be allowed to the respondent, but if reversed or modified, no costs of the appeal shall be allowed to either party.

§ 3377. **New appraisal.**— On the hearing of the appeal from the final order the court may direct a new appraisal before the same or new commissioners in its discretion, and the report of such commissioners shall be final and conclusive upon all parties interested. If the amount of the compensation to be paid is increased by the last report, the difference shall be a lien upon the land appraised, and shall be paid to the parties entitled to the same, or shall be deposited as the court shall direct; and if the amount is diminished, the difference shall be refunded to the plaintiff by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the last report, against the parties liable to pay the same.

§ 3378. **Adverse and conflicting claimants to money.**— If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the court may direct the money to be paid into the court by the plaintiff, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and direction are to be made.

§ 3379. **Power of court to prevent disturbance of possession.**— At any stage of the proceeding the court may authorize the plaintiff, if in possession of the property sought to be condemned, to continue in possession, and may stay all actions or proceedings against him on account thereof, upon giving security, or depositing such sum of money as the court may direct to be held as security for the payment of the compensation which may be finally awarded to the owner therefor and the costs of the proceeding, and in every such case the owner may conduct the proceeding to a conclusion, if the plaintiff delays or neglects to prosecute the same.

§ 3380. **Entry upon the use of property after answer has been interposed.**— When an answer to the petition has been interposed, and it appears to the satisfaction of the court that the public interests will be prejudiced by delay, it may direct that the plaintiff be permitted to enter immediately upon the real property to be taken, and devote it temporarily to the public use specified in the petition, upon depositing with the court the sum stated in the answer as the value of the property, and which sum shall be applied, so far as it may be necessary for that purpose, to the payment of the award that may be made, and the cost and expenses of the proceeding, and the residue, if any,

returned to the plaintiff, and in case the petition should be dismissed, or no award should be made, or the proceedings should be abandoned by the plaintiff, the court shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages which the defendant may have sustained by such entry upon and use of his property, and his costs and expenses of the proceeding, such damages to be ascertained by the court, or a referee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages, and all costs and expenses awarded to the defendant, judgment shall be entered against the plaintiff for the deficiency, to be enforced and collected in the same manner as a judgment in the supreme court; and the possession of the property shall be restored to the defendant.

§ 3381. Notice of pendency of proceedings; effect thereof; duty of county clerk.— Upon service of the petition, or at any time afterwards before the entry of the final order, the plaintiff may file in the clerk's office of each county where any part of the property is situated, a notice of the pendency of the proceeding, stating the names of the parties, and the object of the proceeding, and containing a brief description of the property affected thereby, and from the time of filing such notice shall be constructive notice to a purchaser, or incumbrancer of the property affected thereby, from or against a defendant with respect to whom the notice is directed to be indexed as herein prescribed, and a person whose conveyance or incumbrance is subsequently executed or subsequently recorded, is bound by all proceedings taken in the proceeding after the filing of the notice to the same extent as if he was a party thereto. The county clerk must immediately record such notice when filed in the book in his office kept for the purpose of recording notices of pendency of actions, and index it to the name of each defendant specified in the direction appended at the foot of the notice, and subscribed by the plaintiff or his attorney.

§ 3382. Power of court to make all necessary orders, etc.— In all proceedings under this title, where the mode or manner of conducting all or any of the proceedings therein is not expressly provided for by law, the court before whom such proceedings may be pending, shall have the power to make all necessary orders and give necessary directions to carry into effect the object and intent of this title, and of the several acts conferring authority to condemn lands for public use, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

§ 3383. **Repeal.**— So much of all acts and parts of acts as prescribe a method of procedure in proceedings for the condemnation of real property for a public use is repealed, except such acts and parts of acts as prescribe a method of procedure for the condemnation of real property for public use as a highway, or as a street, avenue, or public place in an incorporated city or village, or as may prescribe methods of procedure for such condemnation for any public use for, by, on behalf, on the part, or in the name of the corporation of the city of New York, known as the mayor, aldermen, and commonalty of the city of New York, or by whatever name known, or by or on the application of any board, department, commissioners or other officers acting for or on behalf or in the name of such corporation or city, or where the title to the real property so to be acquired vests in such corporation or in such city; and all proceedings for the condemnation of real property embraced within the exceptions enumerated in this section are exempted from the operation of this title. (Thus amended by chap. 247, Laws of 1890.)

§ 3384. **Title, when to take effect.**— This title shall take effect on the first day of May, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

TITLE II.

PROCEEDINGS FOR THE SALE OF CORPORATE REAL PROPERTY.

SECTION 3390. **Proceedings on application to sell, mortgage, etc., property.**— Whenever any corporation or joint stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

§ 3391. **Petition to court; petition, what to contain; verification.**— The proceedings shall be instituted by the presentation to the supreme court of the district or the county court of the county where the real property, or some part of it, is situated, by the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.
2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.

3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.

4. That the interests of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.

5. That such sale, mortgage or lease has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debts and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described.

The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

§ 3392. Hearing of application. — Upon presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association, or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

§ 3393. Court may grant application; appearance on hearing. — Upon the hearing of the application, if it shall appear, to the satisfaction of the court, that the interests of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease.

SECTION 81. Forfeiture for non-user.

82. Extension of corporate existence.

83. Conflicting corporate laws.

84. Laws repealed.

85. Saving clause.

86. Construction.

87. Law revived.

SECTION 1. Short title.—This chapter shall be known as the general corporation law.

§ 2. Classification of corporations.—A corporation shall be either,

1. A municipal corporation,
2. A stock corporation,
3. A non-stock corporation, or
4. A mixed corporation.

A stock corporation shall be either,

1. A monied corporation,
2. A transportation corporation, or
3. A business corporation.

A non-stock corporation shall be either,

1. A religious corporation, or
2. A membership corporation.

A mixed corporation shall be either,

1. A cemetery corporation,
2. A library corporation,
3. A co-operative corporation,
4. A board of trade corporation, or
5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

1. A railroad corporation, or
2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

§ 3. Definitions.—A municipal corporation includes a county, town, school district, village and city and any other territorial division of the state established by law with powers of local government.

A stock corporation is a corporation having capital stock divided into shares.

A mixed corporation is a corporation which may or may not have capital stock at its option.

A monied corporation is a corporation formed under or subject to the banking or the insurance law.

A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation, which is not a domestic corporation, is a foreign corporation.

The term, directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

The term, office of a corporation, means its principal office within the state, or principal place of business within the state if it has no principal office therein. The office of a stock corporation shall be in the county, town or city in which its business is principally carried on.

The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of the state relating to corporations included in such revision.

§ 4. Qualification of incorporators.—A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and a majority of them residents of this state.

This section shall not apply to a corporation formed by the re-incorporation or consolidation of existing corporations, or to the re-organization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise.

§ 5. Filing and recording certificates of incorporation.—Every certificate of incorporation and amended or supplemental cer-

tificate hereafter executed, except of a religious, cemetery, monied, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct.

All taxes required by law to be paid before or upon incorporation and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid.

§ 6. **Corporations of the same name prohibited.**—No certificate of incorporation of a proposed corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation.

A corporation formed by the re-incorporation, re-organization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded.

§ 7. **Amended and supplemental certificates.**—If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the incorporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made,

and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

§ 8. Lost or destroyed certificates.—If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

§ 9. Certificate and other papers as evidence.—The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed relating to the incorporation of any corporation, or its existence or management, and containing facts required by law to be stated therein, shall be presumptive evidence of the existence of such facts.

§ 10. Prohibition of other than statutory powers.—No corporation shall possess or exercise any corporate powers not expressly given by law or not necessary to the exercise of the powers so given.

§ 11. Grant of general powers.—Every corporation as such has power, though not specified in the law under which it is incorporated :

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and the

transfer of its stock, if it has any. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of the corporation shall control the action of its directors.

No by-law regulating the election of directors or officers shall be valid unless published for at least two weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election.

Subdivisions four and five of this section shall not apply to municipal corporations.

§ 12. Limitations of amount of property of a non-stock corporation.—A corporation not having capital stock may take and hold property not exceeding in value three million dollars, or the yearly income derived from which shall not exceed five hundred thousand dollars, notwithstanding the provisions of any general or special act heretofore passed or certificate of incorporation affecting such corporation.

In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account.

§ 13. Acquisition of additional real property.—When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

§ 14. Acquisition of property in other states.—Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

§ 15. Certificate of authority of a foreign corporation.—No foreign stock corporation other than a monied corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of

business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such date. No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

§ 16. Proof to be filed before granting certificate.—Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy of its charter or certificate of incorporation, and a statement under its corporate seal, particularly setting forth the business or objects of the corporation which it is engaged in carrying on, or which it proposes to carry on, within the state, and a place within the state which is to be its principal place of business, and designating, in the manner prescribed in the Code of Civil Procedure, a person upon whom process against the corporation may be served within the state.

The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state

If the person so designated dies, or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal, designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation may, after such death or removal and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation, if its address or the address of any officer thereof is known to him.

§ 17. Acquisition of real property in this state by certain foreign corporations.—Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this state, may acquire such real property in this state as may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

§ 18. Acquisition by foreign corporations of real property in this state upon judicial sales.—Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or upon any judgment or decree for debts due it, or upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and hold the same for not exceeding five years from the date of such purchase, and convey it by deed or otherwise, in the same manner as a domestic corporation.

§ 19. Prohibition of banking powers.—No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

§ 20. Qualification of members as voters.—At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purposes of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any two or more of them as he may see fit, which right, when exercised,

shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or any thing of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

§ 21. Proxies.—Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

§ 22. Challenges.—Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required

by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any sum of money, or any thing of value to influence the giving of my vote or votes at this meeting or as a consideration therefor."

If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision:

"That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me."

Any person offering to vote as proxy for any other person shall present his proxy and, if so required, take and subscribe the following oath:

"I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or any thing of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or any thing of value to influence the giving of my vote at this meeting, or as a consideration therefor."

If a stock corporation, the oath so taken and subscribed shall contain the following additional provision:

"And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand."

The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation.

§ 23. Effect of failure to elect directors.—If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

§ 24. Mode of calling special election of directors.—If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in a failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

§ 25. Mode of conducting special elections of directors.—Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or can not be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

§ 26. Qualification of voters and canvass of votes at special elections.—In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

§ 27. Powers of supreme court respecting elections.—The supreme court shall, upon the application of any person or corpora-

tion aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

§ 28. **Stay of proceedings in actions collusively brought.**—If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

§ 29. **Quorum of directors and powers of majority.**—The affairs of every corporation shall be managed by its board of directors at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

§ 30. **Directors as trustees in case of dissolution.**—Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

§ 31. **Forfeiture for non-user.**—If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

§ 32. **Extension of corporate existence.**—Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term of which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pursuant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and reording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was

originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

§ 33. Conflicting corporate laws.—If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject-matter, and both provisions shall, in such case, be applicable.

§ 34. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 35. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 36. **Construction.**—The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

§ 37. **Law revived.**—Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

SCHEDULE OF LAWS REPEALED.

Revised Statutes... Part I, chapter 18.....All.

LAWS OF	Chapter	Sections.
1811.....	67.....	All.
1815.....	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819.....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262.....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18.
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.
1847.....	405.....	All.
1848.....	37.....	All.
1848.....	40.....	All.
1848.....	45.....	All.
1848.....	259.....	All.
1848.....	265.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All.
1850.....	140.....	All.
1851.....	14.....	All.
1851.....	19.....	All.
1851.....	98.....	All.
1851.....	107.....	All.
1851.....	487.....	All.
1851.....	497.....	All.
1852.....	228.....	All.
1852.....	372.....	All.

LAWS OF	Chapter	Section.
1853.....	53.....	All.
1853.....	117.....	All.
1858.....	124.....	All.
1353.....	135.....	All.
1853.....	245.....	All.
1853.....	333.....	All.
1858.....	471.....	1, 2, 4.
1853.....	481.....	All.
1853.....	502.....	All.
1853.....	626.....	All.
1854.....	3.....	All.
1854.....	87.....	All.
1854.....	140.....	All.
1854.....	201.....	All.
1854.....	232.....	All.
1854.....	269.....	All.
1854.....	282.....	All.
1854.....	312.....	All.
1855.....	301.....	All.
1855.....	302.....	All.
1855.....	390.....	All.
1855.....	478.....	All.
1855.....	485.....	All.
1855.....	495.....	All.
1855.....	546.....	All.
1855.....	559.....	All.
1856.....	65.....	All.
1857.....	29.....	All.
1857.....	83.....	All.
1857.....	185.....	All.
1857.....	202.....	All.
1857.....	262.....	All.
1857.....	444.....	All.
1857.....	546.....	All.
1857.....	558.....	All.
1857.....	643.....	All.
1857.....	776.....	All.
1858.....	10.....	All.
1858.....	125.....	All.
1859.....	209.....	All.
1859.....	311.....	All.
1859.....	455.....	All.
1860.....	116.....	All.
1860.....	269.....	All.
1860.....	523.....	All.
1861.....	149.....	All.
1861.....	170.....	All.
1861.....	215.....	All.

LAWS OF	Chapter	Section.
1861.....	238.....	All.
1862.....	205.....	All.
1862.....	248.....	All.
1862.....	425.....	All.
1862.....	438.....	All.
1862.....	449.....	All.
1862.....	472.....	All.
1863.....	63.....	All.
1863.....	134.....	All.
1863.....	346.....	All.
1864.....	85.....	All.
1864.....	337.....	All.
1864.....	517.....	All.
1864.....	582.....	All.
1865.....	234.....	All.
1865.....	246.....	All.
1865.....	307.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	73.....	All.
1866.....	259.....	All.
1866.....	322.....	All.
1866.....	371.....	All.
1866.....	697.....	All.
1866.....	780.....	All.
1866.....	799.....	All.
1866.....	838.....	All.
1867.....	12.....	All.
1867.....	49.....	All.
1867.....	248.....	All.
1867.....	254.....	All.
1867.....	419.....	All.
1867.....	480.....	All.
1867.....	509.....	All.
1867.....	775.....	All.
1867.....	906.....	All.
1867.....	937.....	All.
1867.....	960.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1868.....	290.....	All.
1868.....	573.....	All.
1868.....	781.....	All.
1869.....	234.....	All.
1869.....	237.....	All.
1869.....	605.....	All.
1869.....	706.....	All.
1869.....	844.....	All.

LAWS OF.	Chapter	Section.
1869.....	917.....	All.
1870.....	124.....	All.
1870.....	135.....	All.
1870.....	322.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1870.....	773.....	All.
1871.....	95.....	All.
1871.....	481.....	All.
1871.....	535.....	All.
1871.....	560.....	All.
1871.....	657.....	All.
1871.....	669.....	All.
1871.....	697.....	All.
1871.....	883.....	All.
1872.....	81.....	All.
1872.....	128.....	All.
1872.....	146.....	All.
1872.....	248.....	All.
1872.....	283.....	All.
1872.....	350.....	All.
1872.....	374.....	All.
1872.....	426.....	All.
1872.....	609.....	All.
1872.....	611.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1872.....	820.....	All except 20.
1872.....	829.....	All.
1872.....	843.....	All.
1873.....	151.....	All.
1873.....	352.....	All.
1873.....	432.....	All.
1873.....	440.....	All.
1873.....	469.....	All.
1873.....	616.....	All.
1873.....	710.....	All.
1873.....	737.....	All.
1873.....	814.....	All.
1874.....	76.....	All.
1874.....	143.....	All.
1874.....	149.....	All.
1874.....	240.....	All.
1874.....	288.....	All.
1874.....	430.....	All.
1875.....	4.....	All.
1875.....	58.....	All.
1875.....	88.....	All.

LAWS OF	Chapter	Section.
1875.....	108.....	All.
1875.....	113.....	All.
1875.....	119.....	All.
1875.....	120.....	All.
1875.....	159.....	All.
1875.....	193.....	All.
1875.....	256.....	All.
1875.....	319.....	All.
1875.....	365.....	All.
1875.....	445.....	All.
1875.....	510.....	All.
1875.....	586.....	All.
1875.....	598.....	All.
1875.....	606.....	All.
1875.....	611.....	All.
1876.....	77.....	All.
1876.....	135.....	All.
1876.....	198.....	All.
1876.....	280.....	All.
1876.....	358.....	All.
1876.....	378.....	All.
1876.....	415.....	All.
1876.....	435.....	All.
1876.....	446.....	All.
1877.....	103.....	All.
1877.....	158.....	All.
1877.....	164.....	All.
1877.....	171.....	All.
1877.....	224.....	All.
1877.....	266.....	All.
1877.....	374.....	All.
1878.....	61.....	All.
1878.....	121.....	All.
1878.....	163.....	All.
1878.....	203.....	All.
1878.....	210.....	All.
1878.....	261.....	All.
1878.....	264.....	All.
1878.....	316.....	All.
1878.....	334.....	All.
1878.....	394.....	All.
1879.....	214.....	All.
1879.....	253.....	All.
1879.....	290.....	All.
1879.....	293.....	All.
1879.....	350.....	All.
1879.....	377.....	All.
1879.....	393.....	All.

LAWS OF	Chapter	Section.
1879.....	395.....	All.
1879.....	413.....	All.
1879.....	415.....	All.
1879.....	441.....	All.
1879.....	503.....	All.
1879.....	505.....	All.
1879.....	519.....	All.
1879.....	541.....	All.
1880.....	5.....	All.
1880.....	85.....	All.
1880.....	90.....	All.
1880.....	94.....	All.
1880.....	113.....	All.
1880.....	133.....	All.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.

LAWS OF	Chapter	Section.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	208.....	All.

LAWS OF	Chapter	Section.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.
1885.....	489.....	All.
1885.....	498.....	All.
1885.....	535.....	All.
1885.....	540.....	All.
1885.....	549.....	All.
1886.....	65.....	All.
1886.....	182.....	All.
1886.....	271.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1886.....	403.....	All.
1886.....	415.....	All.
1886.....	509.....	All.
1886.....	551.....	All.
1886.....	579.....	All.
1886.....	586.....	All.
1886.....	592.....	All.
1886.....	601.....	All.
1886.....	605.....	All.
1886.....	634.....	All.
1886.....	642.....	All.
1887.....	450.....	All.
1887.....	486.....	All.
1887.....	536.....	All.
1887.....	570.....	All.
1887.....	616.....	All.
1887.....	622.....	All.
1887.....	724.....	All.

LAWS OF	Chapter	Section
1888.....	189.....	All.
1888.....	306.....	All.
1888.....	313.....	All.
1888.....	359.....	All.
1888.....	394.....	All.
1888.....	447.....	All.
1888.....	462.....	All.
1888.....	513.....	All.
1888.....	514.....	All.
1888.....	549.....	All.
1888.....	560.....	All.
1889.....	57.....	All.
1889.....	76.....	All.
1889.....	78.....	All.
1889.....	236.....	All.
1889.....	242.....	All.
1889.....	281.....	All.
1889.....	332.....	All.
1889.....	369.....	All.
1889.....	426.....	All.
1889.....	519.....	All.
1889.....	524.....	All.
1889.....	531.....	All.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	548.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

CHAP. 688.

AN ACT to amend the stock corporation law.

The stock corporation law is amended to read as follows, to take effect immediately :

CHAPTER XXXVI OF THE GENERAL LAWS.

THE STOCK CORPORATION LAW.

ARTICLE 1. General powers ; reorganization. (§§ 1-7).

2. Directors and officers ; their election, duties and liabilities. (§§ 20-32).

3. Stock ; stockholders, their rights and liabilities. (§§ 40-55).

ARTICLE I.

GENERAL POWERS ; REORGANIZATION.

SECTION 1. Short title, and application of chapter.

2. Power to borrow money and mortgage property.

3. Reorganization upon sale of corporate property and franchises.

4. Contents of plan or agreement.

5. Sale of property ; possession of receiver and suits against him.

6. Assent of stockholders to plan of readjustment.

7. Combinations prohibited.

SECTION 1. Short title and application of chapter.—This chapter shall be known as the stock corporation law, but article one shall not apply to monied corporations.

§ 2. Power to borrow money and mortgage property.—In addition to the powers conferred by the general corporation law, every stock corporation shall have power to borrow money or contract debts, when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation ; and may issue and dispose of its obligations for any amount so borrowed, and may mortgage its property and franchises to secure the payment of such obligations or of any debt contracted for the purposes herein specified ; and the amount of the obligations issued and outstanding at any one time secured by such mortgages, excepting mortgages given as a consideration for the purchase of real estate, and mortgages authorized by contracts made prior to May first, eighteen hundred

and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages shall be issued without the consent, of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose. (*See also chap. 337, Laws 1892.*)

§ 3. Reorganization upon sale of corporate property and franchises.—When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been

made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

§ 4. **Contents of plan or agreement.**—At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agree-

ment and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of re-organization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate, the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

§ 5. Sale of property; possession of receiver and suits against him.—The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

§ 6. Stockholders may assent to plan of readjustment.—Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and re-organization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become enti-

tled to his pro rata benefits therein. The commissioners, corporate authorities or proper officers of any city, town or village, who may hold stock in any corporation, the property and franchises whereof, shall be liable to be sold, may assent to any plan or agreement of re-organization which lawfully provides for the formation of a new corporation, and the issue of stock therein to the proper authorities or officers of such cities, towns or villages in exchange for the stock of the old or former corporation by them respectively held. And such commissioners, corporate authorities or other proper officers may assign, transfer or surrender the stock so held by them in the manner required by such plan, and accept in lieu thereof the stock issued by such new corporation in conformity therewith.

§ 7. **Combinations prohibited.**—No stock corporation shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or for the prevention of competition in any necessary of life.

ARTICLE II.

DIRECTORS AND OFFICERS; THEIR ELECTION, DUTIES AND LIABILITIES.

SECTION 20. Directors.

21. Change of number of directors.
22. When acts of directors void.
23. Liability of directors for making unauthorized dividends.
24. Liability of directors for contracting unauthorized debts and over issue of bonds.
25. Liability of directors for loans to stockholders.
26. Transfers of stock by stockholders indebted to corporation.
27. Officers.
28. Inspectors and their oath.
29. Books to be kept.
30. Annual report.
31. Liability of officers for false certificates, reports or public notices.
32. Alteration or extension of business.

§ 20. **Directors.**—The directors of every stock corporation shall be chosen from the stockholders at the time and place fixed by the by-laws of the corporation by a plurality of the votes of the stockholders voting at such election. Vacancies in the board of directors shall be filled in the manner prescribed in the by-laws, and if a director shall cease to be a stockholder his office shall become vacant. Notice of the time and place of holding any election of directors shall be given by publication thereof, at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held,

and in such other manner as may be prescribed in the by-laws. Policy holders of an insurance corporation shall be eligible to election as directors. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

§ 21. Change of number of directors.—The number of directors of any stock corporation may be increased or reduced, but not above the maximum nor below the minimum number prescribed by law, when the stockholders owning a majority of the stock of the corporation shall so determine, at a meeting to be held at the usual place of meeting of the directors, on two weeks' notice in writing to each stockholder of record. Such notice shall be served personally or by mail, directed to each stockholder at his last known post-office address. Proof of the service of such notice shall be filed in the office of the corporation at or before the time of such meeting. The proceedings of such meeting shall be entered in the minutes of the corporation and a transcript thereof, verified by the president and secretary of the meeting shall be filed in the offices where the original certificates of incorporation were filed. If a corporation formed under or subject to the banking law, the consent of the superintendent of banks, and if an insurance corporation, the consent of the superintendent of insurance, shall be first obtained to such increase or reduction of the number of directors.

§ 22. When acts of directors void.—When the directors of any corporation for the first year of its corporate existence shall hold over and continue to be directors after the first year, because of their neglect or refusal to adopt the by-laws required to enable the stockholders to hold the annual election for directors, all their acts and proceedings while so holding over, done for and in the name of the corporation, designed to charge upon it any liability or obligation for the services of any such director, or any officer, or attorney or counsel appointed by them, and every such liability or obligation shall be held to be fraudulent and void.

§ 23. Liability of directors for making unauthorized dividends.—The directors of a stock corporation shall not make dividends, except from the surplus profits arising from the business of such corporation; nor divide, withdraw or in any way pay to the stockholders, or any of them, any part of the capital of such corporation, or reduce its capital stock, except as authorized by law. In case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at

large upon the minutes of such directors at the time, or were not present when the same happened, shall jointly and severally be liable to such corporation and to the creditors thereof to the full amount of the capital of such corporation so divided, withdrawn, paid out or reduced. But this section shall not prevent a division and distribution of the assets of any such corporation remaining after the payment of all its debts and liabilities upon the dissolution of such corporation or the expiration of its charter.

§ 24. Liability of directors for unauthorized debts and over-issue of bonds.—No stock corporation, except a monied corporation, shall create any debt, if thereby its total indebtedness not secured by mortgage shall exceed the amount of its paid-up capital stock, and the directors creating or consenting to the creation of any such debt shall be personally liable therefor to the creditors of the corporation. If bonds or other obligations of the corporation, secured by mortgage, are issued in excess of the amount authorized by law, or in violation of law, the directors voting for such over-issue, or unlawful issue, shall be personally liable to the holders of the bonds or other obligations illegally issued for the amount held by them, and to all persons sustaining damage by such illegal issues for any damage caused thereby.

§ 25. Liability of directors for loans to stockholders.—No loan of moneys shall be made by any stock corporation, except a monied corporation, or by any officer thereof out of its funds to any stockholder therein, nor shall any such corporation or officer discount any note or other evidence of debt, or receive the same in payment of any installment or any part thereof due or to become due on any stock in such corporation, or receive or discount any note, or other evidence of debt, to enable any stockholder to withdraw any part of the money paid in by him on his stock. In case of the violation of any provision of this section, the officers or directors making such loan, or assenting thereto, or receiving or discounting such notes or other evidences of debt, shall, jointly and severally, be personally liable to the extent of such loan and interest, for all the debts of the corporation contracted before the repayment of the sum loaned, and to the full amount of the notes or other evidences of debt so received or discounted, with interest from the time such liability accrued.

§ 26. Transfers of stock by stockholder indebted to corporation.—If a stockholder shall be indebted to the corporation, the directors may refuse to consent to a transfer of his stock until such indebtedness is paid, provided a copy of this section is written or printed upon the certificate of stock.

§ 27. **Officers.**—The directors of a stock corporation may appoint from their number a president, and may appoint a secretary, treasurer, and other officers, agents and employes, who shall respectively have such powers and perform such duties in the management of the property and affairs of the corporation, subject to the control of the directors, as may be prescribed by them or in the by-laws. The directors may require any such officer, agent or employe to give security for the faithful performance of his duties, and may remove him at pleasure. The policy holders of an insurance corporation shall be eligible to election or appointment as its officers.

§ 28. **Inspectors and their oath.**—The inspectors of election of every stock corporation shall be appointed in the manner prescribed in the by-laws, but the inspectors of the first election of directors and of all previous meetings of the stockholders shall be appointed by the board of directors named in the certificate of incorporation. No director or officer of a monied corporation shall be eligible to election or appointment as inspector. Each inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation, and if any inspector shall refuse to serve, or neglect to attend at the election, or his office become vacant, the meeting may appoint an inspector in his place unless the by-laws otherwise provide. The inspectors appointed to act at any meeting of the stockholders shall, before entering upon the discharge of their duties, be sworn to faithfully execute the duties of inspector at such meeting with strict impartiality, and according to the best of their ability, and the oath so taken shall be subscribed by them, and immediately filed in the office of the clerk of the county in which such election or meeting shall be held, with a certificate of the result of the vote taken thereat. .

§ 29. **Books to be kept.**—Every stock corporation shall keep at its office, correct books of account of all its business and transactions, and a book to be known as the stock-book, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon. The stock-book of every such corporation shall be open daily, during business hours, for the inspection of its stockholders and judgment creditors, who may make extracts therefrom. No transfer of stock shall be valid as against the corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the corporation according to the provisions of this

chapter, until it shall have been entered in such book as required by this section, by an entry showing from and to whom transferred. Such latter book shall be presumptive evidence of the facts therein so stated in favor of the plaintiff, in any action or proceeding against such corporation or any of its officers, directors or stockholders. Every corporation that shall neglect or refuse to keep or cause to be kept such books, or to keep any book open for inspection as herein required, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect or refuse. If any officer or agent of any such corporation shall willfully neglect or refuse to make any proper entry in such book or books, or shall neglect or refuse to exhibit the same, or allow them to be inspected and extracts taken therefrom as provided in this section, the corporation and such officer or agent shall each forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all damages resulting to him therefrom.

§ 30: **Annual report.**—Every stock corporation, except monied and railroad corporations, shall annually, during the month of January, or, if doing business without the United States, before the first day of May, make a report as of the first day of January, which shall state:

1. The amount of its capital stock, and the proportion actually issued.
2. The amount of its debts or an amount which they do not then exceed.
3. The amount of its assets or an amount which its assets at least equal.

Such report shall be signed by a majority of its directors, and verified by the oath of the president or vice-president and treasurer or secretary, and filed in the office of the secretary of state and in the office of the county clerk of the county where its principal business office may be located. If such report is not so made and filed, all the directors of the corporation shall jointly and severally be personally liable for all the debts of the corporation then existing, and for all contracted before such report shall be made. No director shall be liable for the failure to make and file such report if he shall file with the secretary of state, within thirty days after the first day of February, or the first day of May, as the case may be, a verified certificate, stating that he has endeavored to have such report made and filed, but that the officers or a majority of the directors have refused and neglected to make and file the same, and shall append to such certificate a report containing the items re-

quired to be stated in such annual report, so far as they are within his knowledge or are obtainable from sources of information open to him, and verified by him to be true to the best of his knowledge, information and belief.

§ 31. Liability of officers for false certificates, reports or public notices.—If any certificate or report made or public notice given by the officers or directors of a stock corporation shall be false in any material representation, the officers and directors signing the same shall jointly and severally be personally liable to any person who has become a creditor or stockholder of the corporation upon the faith of any such certificate, report, notice or any material representation therein to the amount of the debt contracted upon the faith thereof if not paid when due, or of the damage sustained by any purchaser of or subscriber to its stock upon the faith thereof. The liability imposed by this section shall exist in all cases where the contents of any such certificate, report or notice or of any material representation therein shall have been communicated either directly or indirectly to the person so becoming a creditor or stockholder and he became such creditor or stockholder upon the faith thereof. No action can be maintained for a cause of action created by this section unless brought within two years from the time the certificate, report or public notice shall have been made or given by the officers or directors of such corporation.

§ 32. Alteration or extension of business.—Any stock corporation heretofore or hereafter organized under any general or special law of this state may extend or alter its business and powers so as to include any purposes and powers which at the time of such extension may have been conferred by law upon corporations engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character, by filing in the manner provided for the original certificate of incorporation an amended certificate, executed by a majority of its directors, stating the extension of business and powers and rights proposed, and that the same has been duly authorized by a vote of stockholders representing at least three-fifths of the capital stock, at a meeting of the stockholders called for the purpose in the manner provided in section forty-five of this chapter, and a copy of the proceedings of such meeting, verified by the affidavit of one of the directors present thereat, shall be filed with such amended certificate.

ARTICLE III.

STOCK ; STOCKHOLDERS, THEIR RIGHTS AND LIABILITIES.

SECTION 40. Issue and transfers of stock.

41. Subscriptions to stock.
42. Consideration for issue of stock and bonds.
43. Time of payment of subscriptions to stock.
44. Increase or reduction of capital stock.
45. Notice of meeting to increase or reduce capital stock.
46. Conduct of such meeting ; certificate of increase or reduction.
47. Preferred and common stock.
48. Prohibited transfers to officers or stockholders.
49. Payment by stockholders of mortgage debt pending foreclosure.
50. Application to court to order issue of new in place of lost certificate of stock.
51. Order of court upon such application.
52. Financial statement to stockholders.
53. Exhibition of books by transfer agent of foreign corporation.
54. Liabilities of stockholders.
55. Limitation of stockholder's liability.

§ 40. Issue and transfers of stock.—The stock of every stock corporation shall be represented by certificates prepared by the directors and signed by the president or vice-president and secretary or treasurer and sealed with the seal of the corporation, and shall be transferable in the manner prescribed in this chapter and in the by-laws. No share shall be transferable until all previous calls thereon shall have been fully paid in.

Any stock corporation, domestic or foreign, now existing or hereafter organized, except monied corporations, may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stock, bonds or other obligations if authorized so to do by a provision in the certificate of incorporation of such stock corporation, or in any certificate amendatory thereof or supplementary thereto, filed in pursuance of law, or if the corporation whose stock is so purchased, acquired, held or disposed of, is engaged in a business similar to that of such stock corporation, or engaged in the manufacture, use or sale of the property, or in the construction or operation of works necessary or useful in the business of such stock corporation, or in which or in connection with which the manufactured articles, product or property of such stock corporation are or may be used, or is a corporation with which such stock corporation is or may be authorized to consolidate. When any such corporation shall be a stockholder in any other corporation, as herein

provided, its president or other officers shall be eligible to the office of director of such corporation, the same as if they were individually stockholders therein and the corporation holding such stock shall possess and exercise in respect thereof, all the rights, powers and privileges of individual owners or holders of such stock.

Any stock corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose by notice in writing signed by a majority of the directors of such corporation stating the time and place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail at his last-known post-office address at least sixty days prior to such meeting, guarantee the bonds of any other domestic corporation engaged in the same general line of business.

§ 41. **Subscriptions to stock.**—If the whole capital stock shall not have been subscribed at the time of filing the certificate of incorporation, the directors named in the certificate may open books of subscription to fill up the capital stock in such places, and after giving such notices as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber, whose subscription is payable in money, shall pay to the directors ten per centum upon the amount subscribed by him in cash, and no such subscription shall be received or taken without such payment.

§ 42. **Consideration for issue of stock and bonds.**—No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation. No such stock shall be issued for less than its par value.

No such bonds shall be issued for less than the fair market value thereof.

§ 43. **Time of payment of subscriptions to stock.**—Subscriptions to the capital stock of a corporation shall be paid at such times and in such installments as the board of directors may by resolution require. If default shall be made in the payment of any installment as required by such resolution, the board may declare the stock and all previous payments thereon forfeited for the use of the corporation, after the expiration of sixty days from the service on the defaulting stockholder, personally or by mail directed to him at his last-known post-office address, of a written notice requiring him to make payment within sixty days from the service of the notice at a place specified therein, and stating that, in case of failure to do so,

his stock and all previous payments thereon will be forfeited for the use of the corporation.

Such stock, if forfeited, may be reissued or subscriptions therefor may be received as in the case of stock not issued or subscribed for. If not sold for its par value or subscribed for within six months after such forfeiture, it shall be canceled and deducted from the amount of the capital stock. If by such cancellation, the amount of the capital stock is reduced below the minimum required by law, the capital stock shall be increased to the required amount within three months thereafter or an action may be brought or proceedings instituted to close up the business of the corporation as in the case of an insolvent corporation. If a receiver of the assets of the corporation has been appointed, all unpaid subscriptions to the stock shall be paid at such times and in such installments as the receiver or the court may direct.

§ 44. **Increase or reduction of capital stock.**—Any domestic corporation may increase or reduce its capital stock in the manner herein provided, but not above the maximum or below the minimum amount, if any, prescribed by law. If increased, the holders of the additional stock issued shall be subject to the same liabilities with respect thereto as are provided by law in relation to the original capital; if reduced, the amount of its debts and liabilities shall not exceed the amount of its reduced capital, unless an insurance corporation in which case the amount of its debts and liabilities shall not exceed the amount of its reduced capital and other assets. The owner of any stock shall not be relieved from any liability existing prior to the reduction of the capital stock of any stock corporation.

§ 45. **Notice of meeting to increase or reduce capital stock.**—Every such increase or reduction must be authorized by a vote of the stockholders owning at least two-thirds of the stock of the corporation, taken at a meeting of the stockholders specially called for that purpose. Notice of the meeting, stating the time, place and object, and the amount of the increase or reduction proposed, signed by a majority of the directors, shall be published once a week, for at least two successive weeks, in a newspaper in the county where its principal business office is located, if any is published therein, and a copy of such notice shall be personally served upon or duly mailed to each stockholder or member at his last-known post-office address at least three weeks before the meeting.

§ 46. **Conduct of such meeting; certificate of increase or reduction.**—If, at the time and place specified in the notice, the stockholders shall appear in person or by proxy, in numbers representing

at least two-thirds of all the shares of stock, they shall organize by choosing from their number a chairman and secretary, and take a vote of those present in person or by proxy, and if a sufficient number of votes shall be given in favor of such increase or reduction, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount of the increased or reduced capital stock, shall be made, signed, verified and acknowledged by the chairman and secretary of the meeting, and filed in the office of the clerk of the county where its principal place of business shall be located, and a duplicate thereof in the office of the secretary of state. In case of a reduction of the capital stock, except of a railroad corporation, or a monied corporation, such certificate shall have indorsed thereon the approval of the comptroller, to the effect that the reduced capital is sufficient for the proper purposes of the corporation, and is in excess of its debts and liabilities, and in case of the increase, or reduction of the capital stock of a railroad corporation, or a monied corporation, the certificate shall have indorsed thereon the approval of the board of railroad commissioners, if a railroad corporation; of the superintendent of banks, if a corporation formed under or subject to the banking law; and of the superintendent of insurance, if an insurance corporation.

When the certificate herein provided for has been filed, the capital stock of such corporation shall be increased or reduced, as the case may be, to the amount specified in such certificate. The proceedings of the meeting at which such increase or reduction is voted, shall be entered upon the minutes of the corporation. If the capital stock is reduced, the amount of capital over and above the amount of the reduced capital shall be returned to the stockholders pro rata at such times and in such manner as the directors shall determine.

§ 47. Preferred and common stock.—Every domestic stock corporation may have preferred and common stock, and different classes of preferred stock, if the certificate of incorporation so provides or by the unanimous consent of the stockholders, and may, upon the written request of the holder of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for the organization of such corporation, or the issue of such preferred stock, but the total amount of such capital stock shall not be increased thereby.

§ 48. Prohibited transfers to officers or stockholders.--No corporation which shall have refused to pay any of its notes or other obligations when due, in lawful money of the United States, nor any of its officers or directors, shall transfer any of its property to any of its officers, directors or stockholders, directly or indirectly, for the payment of any debt, or upon any other consideration than the full value of the property paid in cash. No conveyance, assignment or transfer of any property of any such corporation by it or by any officer, director or stockholder thereof, nor any payment made, judgment suffered, lien created or security given by it or by any officer, director or stockholder when the corporation is insolvent or its insolvency is imminent, with the intent of giving a preference to any particular creditor over other creditors of the corporation shall be valid.

Every person receiving by means of any such prohibited act or deed any property of the corporation shall be bound to account therefor to its creditors or stockholders or other trustees.

No stockholder of any such corporation shall make any transfer or assignment of his stock therein to any person in contemplation of its insolvency. Every transfer or assignment or other act done in violation of the foregoing provisions of this section shall be void.

No conveyance, assignment or transfer of any property of a corporation formed under or subject to the banking law, exceeding in value one thousand dollars shall be made by such corporation, or by any officer or director thereof, unless authorized by a previous resolution of its board of directors, except promissory notes or other evidences of debt issued or received by the officers of the corporation in the transaction of its ordinary business and except payments in specie or other current money or in bank bills made by such officers. No such conveyance, assignment or transfer shall be void in the hands of a purchaser for a valuable consideration without notice.

Every director or officer of a corporation who shall violate or be concerned in violating any provision of this section, shall be personally liable to the creditors and stockholders of the corporation of which he shall be director or an officer to the full extent of any loss they may respectively sustain by such violation.

§ 49. Payment by stockholders of mortgage debt pending foreclosure.--Whenever default shall be made by any corporation in the payment of principal or interest of any of its bonds secured by mortgage or deed of trust of its property, any stockholder may at any time during the pendency of the foreclosure of such mortgage or deed of trust and before the sale thereunder pay to

the mortgagees or grantees in such mortgage or deed, for the use and benefit of the holders of such bonds, a sum equal to such proportion of the amount due and secured to be paid by such mortgage or deed, as his stock in such corporation shall bear to its whole capital stock, and on making such payment he shall to the extent thereof become and be interested in such mortgage or deed and protected thereby.

§ 50. Application to court to order issue of new in place of lost certificate of stock.—The owner of a lost or destroyed certificate of stock, if the corporation shall refuse to issue a new certificate in place thereof, may apply to the supreme court, at any special term held in the district where he resides, or in which the principal business office of the corporation is located, for an order requiring the corporation to show cause why it should not be required to issue a new certificate in place of the one lost or destroyed. The application shall be by petition, duly verified by the owner, stating the name of the corporation, the number and date of the certificate, if known, or if it can be ascertained by the petitioner; the number of shares named therein, to whom issued, and as particular a statement of the circumstances attending such loss or destruction as the petitioner can give. Upon the presentation of the petition the court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not issue a new certificate of stock in place of the one described in the petition. A copy of the petition and order shall be served on the president or other head of the corporation, or on the secretary or treasurer thereof, personally, at least ten days before the time for showing cause.

§ 51. Order of court upon such application.—Upon the return of the order, with proof of due service thereof, the court shall, in a summary manner, and in such mode as it may deem advisable, inquire into the truth of the facts stated in the petition, and hear the proofs and allegations of the parties in regard thereto, and if satisfied that the petitioner is the lawful owner of the number of shares, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed, and cannot after due diligence be found, and that no sufficient cause has been shown why a new certificate should not be issued, it shall make an order requiring the corporation, within such time as shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares specified in the order, upon depositing such security, or filing a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner.

who shall thereafter be found to be the lawful owner of the certificate lost or destroyed; and the court may direct the publication of such notice, either before or after making such order as it shall deem proper. Any person claiming any rights under the certificates alleged to have been lost or destroyed shall have recourse to such indemnity, and the corporation shall be discharged from all liability to such person upon compliance with such order; and obedience to the order may be enforced by attachment against the officer or officers of the corporation on proof of his or their refusal to comply with it.

§ 52. Financial statement to stockholders.—Stockholders owning five per centum of the capital stock of any corporation other than a monied corporation, not exceeding one hundred thousand dollars, or three per centum where it exceeds one hundred thousand dollars, may make a written request to the treasurer or chief fiscal officer thereof, for a statement of its affairs, under oath, embracing a particular account of all its assets and liabilities, and the treasurer shall make such statement and deliver it to the person presenting the request within thirty days thereafter, and keep on file for twelve months thereafter a copy of such statement, which shall at all times during business hours be exhibited to any stockholder demanding an examination thereof; but the treasurer or such chief fiscal officer shall not be required to deliver more than one such statement in any one year. The supreme court, or any justice thereof, may upon application, for good cause shown, extend the time for making and delivering such certificate. For every neglect or refusal of the treasurer or other chief fiscal officer thereof to comply with the provisions of this section he shall forfeit and pay to the person making such request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished.

§ 53. Exhibition of books by transfer agent of foreign corporation.—The transfer agent in this state of any foreign corporation whether such agent shall be a corporation or a natural person, shall, at all times during the usual hours of transacting business, exhibit to any stockholder of such corporation, when required by him, the transfer book, and a list of the stockholders thereof, if in his power to do so, and for every violation of the provisions of this section, such agent, or any officer or clerk of such agent, shall forfeit the sum of two hundred and fifty dollars, to be recovered by the person to whom such refusal was made.

§ 54. **Liabilities of stockholders.**—The stockholders of every stock corporation shall, jointly and severally, be personally liable to its creditors, to an amount equal to the amount of the stock held by them respectively, for every debt of the corporation, until the whole amount of its capital stock issued and outstanding at the time such debt was incurred shall have been fully paid. The stockholders of every stock corporation shall, jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employes other than contractors, for services performed by them for such corporation. Before such laborer, servant or employe shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services. No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof, and shall be liable as stockholder; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

§ 55. **Limitation of stockholder's liability.**—No action shall be brought against a stockholder for any debt of the corporation until judgment therefor has been recovered against the corporation, and an execution thereon has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable, with costs against the stockholder. No stockholder shall be personally liable for any debt of the corporation not payable within two years from the time it is contracted, nor unless an action for its collection shall be brought against the corporation within two years after the debt becomes due; and no action shall be brought against a stockholder after he shall have ceased to be a stockholder, for any debt of the corporation, unless brought within two years from the time he shall have ceased to be a stockholder.

THE RAILROAD LAW,

Being chapter 565 of the Laws of 1890, as amended by chapters 362 and 367 of the Laws of 1891, and by chapters 306, 460, 534, 676 700 and 702 of the Laws of 1892.

AN ACT in relation to railroads, constituting chapter thirty-nine of the general laws.

CHAPTER XXXIX OF THE GENERAL LAW.

THE RAILROAD LAW.

- ARTICLE 1. Organization; general powers; location (§§ 1-21).
2. Construction; operation; management (§§ 30-59).
 3. Consolidation; lease; sale; reorganization (§§ 70-83).
 4. Street surface railroads (§§ 90-110).
 5. Other railroads in cities and counties (§§ 120-142).
 6. Board of railroad commissioners (§§ 150-171).

ARTICLE I.

ORGANIZATION, GENERAL POWERS, LOCATION.

SECTION 1. Short title.

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18. Additional corporate powers of such road.
19. Location of principal office of such road.
20. Individual, joint-stock association, or other corporation may lay down and maintain railroad tracks in certain cases.
21. When electric light and power corporation may become a railroad corporation.
21. Certain roads to be operated in the summer only.

SECTION 1. Short title. — This chapter shall be known as the railroad law.

§ 2. Incorporation. — Fifteen or more persons may become a corporation, for the purpose of building, maintaining and operating a railroad, or of maintaining and operating a railroad already built, not owned by a railroad corporation, or for both purposes, by executing, acknowledging and filing a certificate, in which shall be stated:

1. The name of the corporation.
 2. The number of years it is to continue.
 3. The kind of road to be built or operated.
 4. Its length and termini.
 5. The name of each county in which any part of it is to be located.
 6. The amount of capital stock, which shall not be less than ten thousand dollars for every mile of road built, or proposed to be built, except a narrow-gauge road, when it shall not be less than three thousand dollars for every such mile.
 7. The number of shares into which the capital stock is to be divided.
 8. If the capital stock is to consist of common and preferred stock, the amount of each class and the rights and privileges of the latter over the former.
 9. The names and post-office addresses of the directors of the corporation, not less than nine, who shall manage its affairs for the first year.
 10. The place where its principal office is to be located.
 11. If a street surface railroad, the names and description of the streets, avenues and highways in which the road is to be constructed.
 12. If it is to be a railway corporation, specified in article five of this chapter, the statements required by that article to be inserted in the certificate of incorporation.
 13. The name and post-office address of each subscriber to the certificate and the number of shares of stock he agrees to take.
- Such certificate shall have indorsed thereon, or annexed thereto, to be taken as a part thereof, an affidavit of at least three of such direct-

ors that at least ten per cent of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein. In case of a railway corporation specified in article five of this chapter, the affidavit of the directors shall show that the full amount of such capital stock has been in good faith subscribed, and there shall be annexed to the certificate of incorporation and as a part thereof the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate.

The filing of every certificate, where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void. (*Thus amended by chap. 676, Laws 1892.*)

§ 3. Supplemental certificate.—If the names and places of residence of the directors of the corporation have been omitted from the certificate, when executed and acknowledged, and thereafter the requisite number of directors has been chosen at a meeting of the subscribers to the certificate, a supplemental certificate, containing their names and places of residence, may be filed with such certificate with the same force and effect as if the names and places of residence of the directors had been originally inserted therein.

§ 4. Additional powers conferred.—Subject to the limitations and requirements of this chapter, every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power:

1. **Entry upon lands for purposes of survey.**—To cause the necessary examination and survey for its proposed railroad to be made for the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, to enter upon any lands or waters subject to liability to the owner for all damages done.

2. **Acquisition of real property.**—To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; and to acquire by condemnation such real estate and property as may be necessary for such construction, maintenance and accommodation in the manner provided by law, but the real property acquired by condemnation shall be held and used only for the purposes of the corporation during the continuance of the corporate existence.

3. Construction of road.—To lay out its road not exceeding six rods in width, and to construct the same; and, for the purpose of cuttings and embankments, to take such additional lands as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be in danger of falling on the road, upon making compensation therefor.

4. Intersection of streams, highways, plank-roads, turn-pikes and canals.—To construct its road across, along or upon any stream, water-course, highway, plank-road, turnpike, or across any of the canals of the State, which the route of its road shall intersect or touch.

5. Intersection of other railroads.—To cross, intersect, join, or unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad corporation, with the necessary turnouts, sidings, switches and other conveniences in furtherance of the objects of its connections.

6. Buildings and stations.—To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.

7. Transportation of persons and property.—To take and convey persons and property on its railroad by the power or force of steam or of animals, or by any mechanical power, except where such power is specially prescribed in this chapter, and to receive compensation therefor.

8. Time and manner of transportation.—To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

9. Purchase of lands and stock in other states.—To acquire and dispose of any real property in any other State through which any part of its railroad is operated, and stock in any foreign corporation owning lands in another state for the purpose of securing for such railroad corporation in this state a permanent supply of fuel for its use, and stock of corporations in this state, formed for the purpose of erecting union railway depots.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid. (*Thus amended by chap. 676, Laws 1892.*)

§ 5. When corporate powers to cease.— If any domestic railroad corporation shall not, within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per cent of the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing such certificate, its corporate existence and powers shall cease.

§ 6. Location of route.— Every railroad corporation, except a street surface railroad corporation and an elevated railway corporation, before constructing any part of its road in any county named in its certificate of incorporation, or instituting any proceedings for the condemnation of real property therein, shall make a map and profile of the route adopted by it in such county, certified by the president and engineer of the corporation or a majority of the directors, and file it in the office of the clerk of the county in which the road is to be made. The corporation shall give written notice to all actual occupants of the lands over which the route of the road is so designated, and which has not been purchased by or given to it, of the time and place such map and profile were filed, and that such route passes over the lands of such occupants. Any such occupant or the owner of the land aggrieved by the proposed location, may, within fifteen days after receiving such notice, give ten days' written notice to such corporation and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the supreme court, in the judicial district where the lands are situated, by petition duly verified, for the appointment of commissioners to examine the route.

The petition shall state the objections to the route designated, shall designate the route to which it is proposed to alter the same, and shall be accompanied with a survey, map and profile of the route designated by the corporation, and of the proposed alteration thereof, and copies thereof shall be served upon the corporation and such owners or occupants with the notice of the application. The justice may, upon the hearing of the application, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the corporation, and the route to which it is proposed to alter the same, and after hearing the parties, to affirm the route originally designated, or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration; but no alteration of the route shall be made except by the concurrence of the commissioner, who is a

practical civil engineer, nor which will cause greater damage or injury to lands or materially greater length of road than the route designated by the corporation, nor which shall substantially change the general line adopted by the corporation.

The commissioners shall, within thirty days after their appointment, make and certify their written determination, which with the petition, map, survey and profile, and any testimony taken before them shall be immediately filed in the office of the county clerk of the county. Within twenty days after such filing, any party may, by written notice to the other, appeal to the general term of the supreme court from the decision of the commissioners, which appeal shall be heard and decided at the next term held in the department in which the lands of the petitioners or any of them are situated, for which the same can be noticed, according to the rules and practice of the court. On the hearing of such appeal, the court may affirm the route proposed by the corporation or may adopt that proposed by the petitioner.

The commissioners shall each be entitled to six dollars per day for their services, and to their reasonable and necessary expenses, to be paid by the persons who applied for their appointment. If the route of the road, as designated by the corporation, is altered by the commissioners, or by the order of the court, the corporation shall refund to the petitioner the amount so paid, unless the decision of the commissioners is reversed upon appeal taken by the corporation. No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section. Every such corporation shall transmit to the board of railroad commissioners the following maps, profiles and drawings exhibiting the characteristics, of their road, to wit: A map or maps showing the length and direction of each straight line; the length and radius of each curve; the point of crossing of each town and county line, and the length of line of each town and county accurately determined by measurements to be taken after the completion of the road.

Whenever any part of the road is completed and used, such maps and profiles of such completed part shall be filed with such board within three months after the completion of any such portion and the commencement of its operation; and when any additional portion of the road shall be completed and used, other maps shall be filed within the same period of time, showing the additional parts so completed. If the route, as located upon the map and profile filed in the office of any county clerk, shall have been changed, it shall also cause

a copy of the map and profile filed in the office of the railroad commissioners, so far as it may relate to the location in such county, to be filed in the office of the county clerk. (*Thus amended by chap. 676, Laws 1892.*)

§ 7. Acquisition of title to real property.—All real property, required by any railroad corporation for the purpose of its incorporation, shall be deemed to be required for a public use. If the corporation is unable to agree for the purchase of any real property, or of any right, interest or easement therein, required for such purpose, or if the owner thereof shall be incapable of selling the same, or if after diligent search and inquiry the name and residence of such owner can not be ascertained, it shall have the right to acquire title thereto by condemnation. It shall also have such right in the following cases:

1. Where title to real property has been acquired, or attempted to be acquired, and has been found to be invalid or defective.

2. Where its railroad shall be lawfully in possession of a lessee, mortgagee, trustee or receiver, and additional real property shall be required for the purpose of running or operating such railroad.

3. Where it shall require any further rights to lands or the use of lands for switches, turnouts, or for filling any structures of its road, or for constructing, widening or completing any of its embankments or roadbeds, by means of which greater safety or permanency may be secured, and such lands shall be contiguous to such railroad and reasonably accessible to the place where the same are to be used for such purpose or purposes.

4. Where it shall require any further right to lands or to the use of lands for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary for the operation of such railroad, or for any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same, or for any right of way required for carrying away or diverting any water, stream or floods from such railroad for the purpose of protecting its road or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring the property of any person who may be rendered liable to injury thereby.

Waters commonly used for domestic, agricultural or manufacturing purposes, shall not be taken by condemnation to such an extent as to

injuriously interfere with such use in the future. No railroad corporation shall have the right to acquire by condemnation any right or easement in or to any real property owned or occupied by any other railroad corporation, except the right to intersect or cross the tracks and lands owned or held for right of way by such other corporation without appropriating or affecting any lands owned or held for depots or gravel-beds. (*Thus amended by chap. 676, Laws 1892.*)

§ 8. **Railroads through public lands.**—The commissioners of the land office may grant to any domestic railroad corporation any land belonging to the people of the state, except the reservation at Niagara and the Concourse lands on Coney island, which may be required for the purposes of its road on such terms as may be agreed on by them; or such corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for such corporation for the purpose of its road, may grant such land to the corporation for such compensation as may be agreed upon.

§ 9. **Railroads through Indian lands.**—Any railroad corporation may contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct its railroad, for the right to make such road upon such lands, but such contract shall not vest in the corporation the fee to the land, nor the right to occupy the same for any purposes other than may be necessary for the construction, occupancy and maintenance of such railroad, and such contract shall not be valid or effectual until it shall be ratified by the county court of the county where the land shall be situated.

§ 10. **Railroads through Chautauqua assembly grounds.**—No railroad corporation shall build, construct or operate any railroad in, upon, over or through the grounds, lands or premises owned by the Chautauqua assembly corporation in the town and county of Chautauqua, without the written consent of a majority of the board of trustees of such assembly corporation.

§ 11. **Intersection of highways, additional lands for.**—No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake, navigated by steam or sail boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any highway in any town or street in any incorporated village, with-

out the order of the supreme court of the district in which such highway or street is situated, made at a special term thereof, after at least ten days' written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated. Every railroad corporation which shall build its road along, across or upon any stream, watercourse, street, highway, plankroad or turnpike, which the route of its road shall intersect or touch, shall restore the stream or watercourse, street, highway, plankroad and turnpike, thus intersected or touched, to its former state, or to such state as not to have unnecessarily impaired its usefulness, and any such highway, turnpike or plankroad may be carried by it, under or over its track, as may be found most expedient. Where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, it may construct such highway, turnpike or plankroad, on such new line as its directors may select, and may take additional lands therefor by condemnation if necessary. Such lands so taken shall become part of such intersecting highway, turnpike or plankroad, and shall be held in the same manner and by the same tenure as the adjacent parts of the highway, turnpike or plankroad are held for highway purposes. Every railroad corporation shall pay all damages sustained by any turnpike or plankroad corporation in consequence of its crossing or occupation of any turnpike or plankroad, and in case of inability to agree upon the amount of such damages it may acquire the right to such crossing or occupation by condemnation.

§ 12. **Intersection of other railroads.**—Every railroad corporation, whose road is or shall be intersected by any new railroad, shall unite with the corporation owning such new railroad in forming the necessary intersections and connections, and grant the requisite facilities therefor. If the two corporations can not agree upon the amount of compensation to be made therefor or upon the line or lines, grade or grades, points or manner of such intersections and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer and surveyor, to be appointed by the court, as is provided in the condemnation law. Such commissioners may determine whether the crossing or crossings of any railroad before constructed shall be beneath, at, or above the existing grade of such railroad, and upon the route designated upon the map of the corporation seeking the crossing or otherwise. All

railroad corporations whose roads are or shall hereafter be so crossed, intersected or joined, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch as, and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property, received at or forwarded from the same point for individuals and other corporations. (*Thus amended by chap. 676, Laws 1892.*)

§ 13. Change of route, grade or terminus.—Every railroad corporation, except elevated railway corporations, may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or its termini, or locate such route, or any part thereof, or its termini, in a county adjoining any county named in its certificate of incorporation, if it shall appear to them that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. If the same is made after the corporation has commenced grading the original route, compensation shall be made to all persons for injury done by such grading to any lands donated to the corporation. But neither terminus can be changed, under this section, to any other county than one adjoining that in which it was previously located; nor can the route or terminus of any railroad be so changed in any town, county or municipal corporation, which has issued bonds and taken any stock or bonds in aid of the construction of such railroad without the written consent of a majority of the taxpayers appearing upon the last assessment-roll of such town, county or municipal corporation, unless such terminus, after the change, will remain in the same village or city as theretofore. No alteration of the route of any railroad after its construction shall be made, or new line or route of road laid out or established, as provided in this section, in any city or village, unless approved by a vote of two-thirds of the common council of the city or trustees of the village. Any railroad corporation whose road as located terminates at any railroad previously constructed or located, whereby communication might be had with any incorporated city of the state, may amend its certificate of incorporation so as to terminate its road at the point of its intersection with any railroad subsequently located to intersect it, and thereby, by itself or its connections, afford communication with such city, with the consent of the stockholders owning two-thirds of the stock of the corporation. Any railroad corporation may, by a vote of its directors, change the grade

of any part of its road, except in the city of Buffalo, in such manner as it may deem necessary to avoid accidents and to facilitate the use of such road; and it may by such vote alter the grade of its road, for such distance and in such manner as it may deem necessary, on each or either side of the place where the grade of its road has been changed by direction of the superintendent of public works, at any point where its road crosses any canal or canal feeder, except in the city of Buffalo. The superintendent of public works shall have a general and supervisory power over that part of any railroad which passes over, or approaches within ten rods of, any canal or feeder belonging to the state so far as may be necessary to preserve the free and perfect use of such canals or feeders, or to make any repairs, improvements or alterations in the same. Any railroad corporation whose tracks cross any of the canals of the state, and the grade of which may be raised by direction of the superintendent of public works, with the assent of such superintendent, may lay out a new line of road to cross such canal at a more favorable grade, and may extend such new line and connect the same with any other line of road owned by such corporation, upon making and filing in the clerk's office of the proper county a survey map and certificate of such new or altered line. No portion of the track of any railroad, as described in its certificate of incorporation, shall be abandoned under this section. (*Thus amended by chap. 676, Laws 1892.*)

§ 14. **Construction of part of line in another state.** — Any railroad corporation, whose proposed railroad is to be built between any two points in this State, may, by a vote of two-thirds of all its directors, locate and construct a part of its road in an adjoining state, and the sections of its road within this state shall be deemed a connected line, according to the certificate of incorporation, and the directors may reduce the capital stock of the corporation to such amount as may be deemed proper, but not less than ten thousand dollars per mile for the number of miles of roads to be actually constructed in this state.

§ 15. **Two roads having the same location.** — If two railroad corporations for a portion of their respective lines embrace the same location of line, or if their lines connect, or are tributary to each other, such corporations may by agreement provide for the construction by one of them of so much of such line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed, and the corporation that is not to construct the part of the line which is common to both, may amend

its certificate of incorporation, and terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of road proposed to be constructed in such amended certificate.

§ 16. **Tunnel railroads.** — When, according to the route and plan for the building of its road, adopted by any railroad corporation, including corporations organized under chapter one hundred and forty of the laws of eighteen hundred and fifty, and the acts amendatory thereof and supplementary thereto, it shall be necessary or proper to build it or any part of it underground, or to tunnel or bridge any river or waters, such corporation may enter upon, acquire title to and use such lands under water and uplands, except on or along any canals of the state, as shall be necessary for the purposes herein mentioned, and may construct, erect and secure the necessary foundations and other structures which may be required for operating and maintaining such road or connecting the same with another, and to acquire, in the manner provided by law, such lands or rights or easements in lands along its route, upon, over or beneath the surface thereof as may be necessary for the construction of its road and making such connections. Where such road runs underneath the ground, at such depth as to enable the corporation to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above same and in the neighborhood thereof firm and safe for buildings and other erections thereon and if surface excavations are made the surface shall be restored to its former condition as soon as can be done, except so far as may be actually required for ventilation of the tunnel beneath the same or access thereto. Such road or any part of it may be built within the limits of any city or incorporated village of this state and run by means of a tunnel underneath any of the streets, roads or public places thereof, provided such corporation shall, before constructing the same underneath any such street, road or public place have obtained the consent of the owners of one-half in value of the property bounded on the line of such street, road or public place, and the consent of the board of trustees of the village, by a resolution adopted at a regular meeting and entered on the records of the board, or of the proper authorities of the city having control of such streets, roads or public places. If the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which said city or village or any part thereof is situated, may upon application appoint three commissioners, who shall determine, after

a hearing of all parties interested, whether such railroad ought to be built underneath such streets, roads or public places, or any of them, and in what manner the same may be so built with the least damage to the surface, and to the use of the surface by the public, and the determination of the commissioners confirmed by the court may be taken in lieu of the consent of the property-owners. All railroad corporations constructing their road under this section shall be subject to all the provisions of this chapter applicable thereto. Any other railroad corporation may connect its road therewith, at such points or places as it may elect, and where such connections shall be made by connecting roads, the railroad corporations owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight, as may be required for the convenience of the public. All railroad corporations, constructing any tunnel under this section, shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary in constructing any railroad authorized by this section through any city or incorporated village, to alter the position or course of any sewer, or water or gas pipes, it shall be done at the expense of the railroad corporation under the direction of the department or corporation having charge thereof, so as not to interfere with such work. In all cases the use of streets, docks and lands beneath which such railroad is constructed, and on the route thereof and the right of way beneath the same, for the purpose of such railroad, shall be considered, and is hereby declared, a public use, consistent with and one of the uses for which streets and docks are publicly held. No public park or square in any city or village of this State shall be used or occupied by any corporation for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall apply to the county of Kings nor shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. (*Thus amended by chaps. 676 and 702, Laws 1892.*)

§ 17. Railroads in foreign countries.—A railroad corporation may be formed under this chapter for the purpose of constructing maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of

constructing, maintaining and operating, in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. (*Thus amended by chap. 676, Laws 1892.*)

§ 18. Additional corporate powers of such road.—The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same, under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to mortgage or sell and convey the same, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars.

§ 19. Location of principal office of such road.— Every such corporation shall maintain its principal office within this state and shall have, during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. (*Thus amended by chap. 676, Laws 1892.*)

§ 20. Individual, joint stock association, or other corporation may lay down and maintain railroad tracks in certain cases.— Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate such railroad. If the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad is to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and the amount of damages, if any, to be paid to such property owners, and their determination confirmed by the court may be taken in lieu of the consent of the property owners. But no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or its use as a highway, or the use of any street or highway intersecting the same.

§ 21. **When electric light and power corporation may become a railroad corporation.**— When all the stockholders of any domestic electric light and power company incorporated under a general law, having not less than five stockholders and actually carrying on business in this state, shall execute and file in the offices in which its original certificates of incorporation are filed an amended certificate of incorporation complying in every other respect than as to the number of signers and directors, who shall be not less than five, with the provisions of the railroad law, and in which certificate the corporate name of such corporation shall be amended by adding before the word “company” in its corporate name, the words “and railroad;” such corporation shall have the right to build, maintain and operate by electricity as a motive power, a railroad not exceeding twenty miles in length, and not a street surface railroad, and such corporation shall otherwise be subject to all the provisions of this chapter and have all the powers, rights and privileges conferred by it upon railroad corporations.

This section shall not apply to any railroad now located in whole or in part or hereafter to be so located in any city of the state. (*This section added to Railroad Law by chap. 676, Laws 1892.*)

* § 21. Any corporation, whose railroad is or shall be not longer than sixteen miles and is or shall be in large part intended for or used in summer travel or the convenience of summer sojourners need not operate its road beyond the months of June, July, August and September, inclusive. The motive power may be electricity. If the road be not longer than ten miles, such corporation may fix and collect fare for transporting each passenger, together with ordinary baggage, if any, not to exceed fifteen cents for each mile and fraction thereof. (*This section added to Railroad Law by chap. 700, Laws 1892.*)

ARTICLE II.

CONSTRUCTION, OPERATION AND MANAGEMENT.

SECTION 30. Liability of corporation to employes of contractor.

31. Weight of rail.
32. Fences, farm-crossings and cattle-guards.
33. Sign-boards and flagmen at crossings.
34. Notice of starting trains; no preferences.
35. Accommodation of connecting roads.
36. Locomotives must stop at grade crossings.
37. Rates of fare.
38. Legislature may alter or reduce fare.

* So in the original.

SECTION 39. Penalty for excessive fare.

40. Passengers refusing to pay fare may be ejected.
41. Extra fare for sleeping car.
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§ 30. Liability of corporation to employes of contractor. —

An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or

usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

§ 31. **Weight of rail.**—The rail used in the construction or the relaying of the track of every railroad hereafter built or relaid in whole or in part shall be of iron on steel, weighing not less than twenty-five pounds to the lineal yard on narrow gauge roads, and on all other roads not less than fifty-six pounds to the lineal yard on grades of one hundred and ten feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over one hundred and ten feet to the mile; except for turnouts, sidings and switches.

§ 32. **Fences, farm-crossings and cattle-guards.**—Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its roads are opened for use, and so soon as it has acquired the right of way for its roadway erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its roads from the adjacent lands with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences are not made, or are not in good repair, the corporation, its lessees or other person in possession of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon. When made and in good repair, they shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction. No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining landowner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall

neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands, to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing. (*Thus amended by chap. 367, Laws 1891, and by chap. 676, Laws 1892.*)

§ 33. **Sign-boards and flagmen at crossings.**— Every railroad corporation shall cause boards to be placed, well supported and constantly maintained, across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travelers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width, the words: "Railroad crossing; look out for the cars;" but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plank-road, or traveled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses, upon request of the local authorities, to station a flagman or erect gates, to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days' notice to the corporation, order that a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossing by a railroad at grade of the streets, highways, turnpikes, plank-roads, or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine

or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour. (*Thus amended by chap. 676, Laws 1892.*)

§ 34. Notice of starting trains ; no preferences.— Every railroad corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all passengers and property which shall be offered for transportation at the place of starting, within a reasonable time previously thereto, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to, such places on the due payment of the fare or freight legally authorized therefor. No station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of railroad commissioners first had and obtained. No preference for the transaction of the business of a common carrier upon its cars, or in its depots or buildings, or upon its grounds, shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others. Any such station in an incorporated village shall have the same name as the village; if any road shall have more than one such station in any such village, the station nearest the geographical center thereof shall have such name. (*Thus amended by chap. 676, Laws 1892.*)

§ 35. Accommodation of connecting roads.— Every railroad corporation whose road, at or near the same place, connects with or is intersected by two or more railroads competing for its business, shall fairly and impartially afford to each of such connecting or intersecting roads equal terms of accommodation, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon its roads, and over and upon their roads, and equal facilities in the interchange and use of passenger, baggage, freight and other cars required to accommodate the business of each road, and in furnishing passage tickets to passengers who may desire to make a continuous trip over any part of its roads and either of such connecting roads. The board of railroad commissioners may, upon application of the corporation owning or operating either of the connecting or intersecting

roads, and upon fourteen days' notice to the corporation owning or operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges, accommodations and facilities to such connecting or intersecting roads as may be required to accommodate the business of each road, and the terms and conditions upon which the same shall be afforded to each road. The decision of the commissioners shall be binding on the parties for two years, and the supreme court shall have power to compel the performance thereof by attachment, mandamus, or otherwise.

§ 36. Locomotives must stop at grade crossings.—All trains and locomotives on railroads crossing each other at grade shall come to a full stop before crossing, not less than two hundred or more than eight hundred feet from the crossing, and shall then cross only when the way is clear and upon a signal from a watchman stationed at the crossing. If the corporations can not agree as to the expense of the watchman, it shall be determined by the supreme court, upon motion thereto by either of them. If the corporations disagree as to the precedence of trains, the board of railroad commissioners may, after hearing, upon the application of either corporation, prescribe rules in relation thereto. The full stop and crossing on signal may be discontinued if the board of railroad commissioners shall decide it to be impracticable, or if, with the approval of the commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing. The full stop and crossing on signal shall not be required in depot yards, or the approaches thereto, if the crossing roads are under lease or subject to the same management or control in the use of tracks. An engineer, violating the foregoing provisions of this section, or any such rule of the railroad commissioners, shall be liable to a penalty of one hundred dollars; and any corporation or person operating the railroad, violating any of such provisions or rules shall be liable to a penalty of five hundred dollars. No railroad corporation, or any officer, agent or employe thereof, shall stop its cars, horses, or locomotives upon a grade crossing of a railroad of another corporation, for the purpose of receiving or delivering passengers or freight, or other purpose, and any person or corporation violating this provision, shall be liable to a penalty of two hundred and fifty dollars.

§ 37. Rates of fare.—Every railway corporation may fix and collect the following rates of fare as compensation to be paid for transporting any passenger and his baggage, not exceeding one hundred and fifty pounds in weight, for each mile or fraction of a mile:

1. Where the motive power is rope or cable, propelled by stationary power, five cents, with right to a minimum fare of ten cents; but if the railroad is less than two miles in length, and overcomes an elevation of five hundred feet or more to the mile, five cents for each one hundred feet of elevation so overcome, and the same rates of fare if the motive power is locomotives, furnished with cogs working into cogs on the railway, and the length of road does not exceed four miles.

2. If a road, not incorporated prior to May 15, 1879, and not located in the counties of New York or Kings, or within the limits of any incorporated city, and not more than twenty-five miles in length, five cents; if over twenty-five and not more than forty miles, four cents; and if over forty miles, three cents. Where by the laying down of a third rail upon a railroad of the ordinary gauge, a narrow-gauge track is created and used for the transportation of passengers, and the length of road does not exceed six miles, including any connecting road of the same gauge, such railroad, for the purpose of fare, shall be deemed a narrow-gauge road.

3. If its railroad overcomes an elevation of two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, ten cents; if it overcomes an elevation exceeding three hundred feet to the mile, within a distance of two miles, five cents for each one hundred feet of elevation; and where it overcomes an elevation of more than one thousand feet, within a distance of two miles, seven cents for each one hundred feet of elevation in a mile.

4. If the line of its road does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city, and the distance traveled thereon by the passenger does not exceed one mile, five cents.

5. In all other cases, three cents for every such mile or fraction thereof, with a right to a minimum single fare of not less than five cents.

This chapter shall not be construed to allow any rate of fare for way passengers greater than two cents per mile to be charged or taken over the track or tracks of the railroad known as the New York central railroad company, and the rate of fare for way passengers over the track or tracks of such company shall continue to be two cents per mile and no more, wherever it is restricted to that rate of fare, nor shall any consolidated railroad corporation charge a higher rate of fare per passenger per mile, upon any part or portion of the consolidated line than was allowed by law to be charged by each existing corporation thereon previously to such consolidation. (*Thus amended by chap. 676, Laws 1892.*)

§ 38. **Legislature may alter or reduce fare.**—The legislature may, when any such railroad shall be opened for use, from time to time, alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with such profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the board of railroad commissioners, they shall ascertain that the net income derived by the corporation from all sources, for the year then last past, shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended.

§ 39. **Penalty for excessive fare.**—Any railroad corporation, which shall ask or receive more than the lawful rate of fare, unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

§ 40. **Passenger refusing to pay fare may be ejected.**—If any passenger shall refuse to pay his fare the conductor of the train, and the servants of the corporation, may put him and his baggage out of the cars, using no unnecessary force, on stopping the train, at any usual stopping place, or near any dwelling-house, as the conductor may elect.

§ 41. **Sleeping and parlor cars.**—Any railroad corporation may contract with any person, association or corporation for the hauling by the special or regular trains of said railroad corporation, the parlor, drawing-room or sleeping car or cars of such person, association or corporation, in which extra accommodations shall be furnished, for which said person, association or corporation furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein a reasonable compensation for such extra accommodation, in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. But said railroad corporation so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the traveling public. (*Thus amended by chap. 676, Laws 1892.*)

§ 42. Persons employed as drivers and conductors.—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver or conductor, or in any other capacity, if fit and competent therefor.

§ 43. Conductors and employes must wear badges.—Every conductor and employe of a railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employe without such badge shall meddle or interfere with any passenger, his baggage or property. (*Thus amended by chap. 676, Laws 1892.*)

§ 44. Checks for baggage.—A check, made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and furnished with a convenient strap or other appendage for attaching to baggage, shall be affixed to every piece or parcel of baggage when taken for transportation for a passenger by the agent or employe of such corporation, if there is a handle, loop or fixture therefor upon the piece or parcel of baggage, and a duplicate thereof given to the passenger or person delivering the same to him. If such check be refused on demand the corporation shall pay to the passenger the sum of ten dollars, and no fare shall be collected or received from him; and if he shall have paid his fare it shall be refunded to him by the conductor in charge of the train. Such baggage shall be delivered, without unnecessary delay, to the passenger or any person acting in his behalf at the place to which it was to be transported, where the cars usually stop, or at any other regular intermediate stopping place, upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, upon presentation of such duplicate check to the officer or agent of the railroad corporation, or of any corporation, over any portion of whose road it was transported. (*Thus amended by chap. 676, Laws 1892.*)

§ 45. Penalties for injuries to baggage.—Any persons, whose duty it is for or on behalf of the common carrier to handle, remove, or care for the baggage of passengers, who shall recklessly or willfully injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the

same, or any railroad corporation, which shall knowingly keep in its employment any such willful or reckless person, or which shall permit any injury or destruction of such property, through failure to provide sufficient help and facilities for the handling thereof, shall pay to the party injured thereby the sum of fifty dollars, in addition to such damages.

§ 46. Unclaimed freight and baggage.— Every railroad or other transportation corporation, doing business in this State, which shall have unclaimed freight or baggage, not perishable, in its possession for the period of one year, may sell the same at public auction, after giving notice to that effect, once a week for not less than four weeks in a newspaper published in the county where the freight or baggage remains unclaimed, and in a newspaper published in the county where the sale is to be had, and in a newspaper published in the city of New York, which notice shall contain, as near as practicable, a description of such freight or baggage, the place and time when left, and the name of the owner, if known. A copy of such notice shall be posted in a conspicuous place at each depot or station, where any portion of such freight or baggage remains unclaimed, at least four weeks before such sale, and a copy thereof shall be served on the comptroller of the state, at least two weeks before such sale. If the name and residence of the owner of any such property is known to, or can be ascertained by, the corporation, it shall forthwith serve a copy of such notice upon such owner by mail. Perishable freight or baggage may be sold without notice, as soon as it can be, upon the best terms that can be obtained. All moneys arising from the sale of such freight or baggage, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and any amount previously paid for its loss or non-delivery, shall be deposited, by the corporation making such sale, with a report thereof, and proofs of advertisement, if any, and if none proofs that the property was perishable, with the comptroller for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by the persons entitled to receive the same. (*Thus amended by chap. 676, Laws 1892.*)

§ 47. Tickets and checks for connecting steamboats.— The proprietors of any line of steamboats, terminating or stopping for passengers at any place where a railroad corporation has a depot or station, may furnish tickets and baggage checks to such corporation for the use of passengers, traveling over its road, who desire to con-

nect with such line of boats at any such place, and the railroad corporation shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to the proprietors of such line of boats all moneys received by it for the sale of such tickets; and any such railroad corporation may furnish tickets and checks for baggage to the proprietors of any such line of steamboats for the use of passengers traveling over any part of such line of boats, who desire to connect with the railroad of any such corporation at any such place, and such proprietors shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to such corporation all moneys received by them for the sale of such tickets. No greater rate of fare shall be charged by any railroad corporation to any such passenger for the distance traveled over its road than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such line of boats, and no greater rate of fare shall be charged by the proprietors of any such steamboat line to any such passenger for the distance traveled over its line, than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such railroad. Any additional cost of transfer of a passenger or his baggage from railroad depot or station to steamboat landing, or from steamboat landing to depot or station, shall be borne by the passenger or the proprietors of the steamboat line or the railroad corporation at whose instance or for whose benefit such transfer is made. Every railroad corporation and the proprietors of any line of steamboats, their agents or servants, who shall neglect or refuse to sell tickets or furnish a check to any passenger applying for the same, when the same shall have been furnished to them, shall pay to such passenger the sum of ten dollars, and no fare or toll shall be collected from him for riding over such road or upon such boats, as the case may be; and in addition thereto any railroad corporation so neglecting or refusing, shall pay the proprietors of such line of boats two hundred and fifty dollars for each day it shall so neglect or refuse; and the proprietors of any such line of boats so neglecting or refusing, shall pay to such railroad corporations a like sum for each day they shall so neglect or refuse.

Every such railroad corporation shall also receive any freight which shall be delivered at any station on the line of its road, marked to go by way of boat or any particular line of boats from any station on its road at which such boat or line of boats terminates or stops for

freight, and shall transport such freight with all convenient speed to such station, and on its arrival there cause the proprietors of the steamboat line by which it is directed to be sent, or their agent, to be notified of such arrival, and shall deliver such freight to such proprietors or their agent with the bill of charges thereon due such railroad corporation, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible, and shall account for and pay the same to such railroad corporation on demand. The railroad corporation shall not charge for the transportation of such freight over its road any greater sum pro rata than it charges for carrying the same kind of freight the same distance over its road, if it was to be transported by such corporation by rail to its final destination or to the terminus of the road of such corporation in case it terminates before such final destination is reached. Any freight delivered by the proprietors of any steamboat or steamboat line, or their authorized agent, at any station, at a place where such steamboat or steamboats have a landing, to any such railroad corporation for transportation over its road or any part thereof, shall be transported by such corporation to its place of destination for the same price pro rata which would be charged for the same kind of freight the same distance over its road, if the same had been taken on at the point of first shipment by boat, or at the terminus of the road of such corporation, in case it does not extend to the point of first shipment.

§ 48. Rights and liabilities as common carriers.—Every railroad corporation doing business in this state shall be a common carrier. Any one of two or more corporations owning or operating connecting roads, within this state, or partly within and partly without the state, shall be liable as a common carrier, for the transportation of passengers or delivery of freight received by it to be transported by it to any place on the line of a connecting road; and if it shall become liable to pay any sum by reason of neglect or misconduct of any other corporation it may collect the same of the corporation by reason of whose neglect or misconduct it became liable. (*Thus amended by chap. 876, Laws 1892.*) .

§ 49. Switches; warning signals; guard-posts; automatic couplers; automatic or other safety brake; tools in passenger car; water.—It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the

principle of either the so-called Tyler, Wharton, Lorenze, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employes on top of cars from injury.

3. To place guard-posts in the prolongation of the line of bridge trusses so that in case of derailment, the posts, and not the bridge trusses, shall receive the blow of the derailed locomotive or car.

4. To use upon every new freight car, built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

5. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

6. To provide each closed car, in use in every passenger train owned or regularly used upon a railroad, with one set of tools, consisting of an axe, sledge-hammer, crow-bar, and handsaw, to be properly placed so as to be easily removed.

7. To provide, in each passenger car, where the line of road shall exceed forty continuous miles in length, a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and to keep such receptacle, while the car is in use, constantly supplied with cool water.

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision seven shall be liable to a penalty of one hundred dollars for each offense and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the seventh subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 50. **Railroad commissioners may approve other safeguards.**—The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the board, in place of any safeguard or device required by this article, which shall thereafter be used in

lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

§ 51. Use of stoves or furnaces prohibited.—It shall not be lawful for any railroad corporation, operating a steam railroad in this state, of the length of fifty miles or more, excepting foreign railroad corporations, incorporated without the jurisdiction of the United States, running cars upon tracks in this state for a distance of less than thirty miles, to heat its passenger cars, on other than mixed trains, excepting dining-room cars, by any stove or furnace kept inside the car, or suspended therefrom, unless in case of accident or other emergency, when it may temporarily use such stove or furnace with necessary fuel, and in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained to be used only when the car is standing still, and no stove or furnace shall be used in any dining-room car, except for cooking purposes, and of a pattern and kind to be approved by the railroad commissioners. Any person or corporation, violating any of the provisions of this section, shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such violation shall continue.

§ 52. Canada thistles to be cut.—Every railroad corporation doing business within this state, shall cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by it, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. If any such corporation shall neglect to cause the same to be so cut down, any person may cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands the same shall be so cut, at the rate of three dollars per day for the time occupied in cutting.

§ 53. Riding on platform ; walking along track.—No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corporation, posted up at

the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved. (*Thus amended by chap. 676, Laws 1892.*)

§ 54. **Corporations may establish ferries.**—Any steam railroad corporation, incorporated under the laws of this state, with a terminus in the harbor of New York, may purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, but this section shall not be construed to affect the rights of the cities of New York and Brooklyn. (*As amended by chap. 676, Laws 1892.*)

§ 55. **Certain railroads may cease operation in winter.**—The directors of any railroad corporation operating a railroad, constructed and used principally for transporting lumber or ores, during the summer months, or for summer travel, may, by a resolution duly passed at a meeting thereof, apply to the board of railroad commissioners for permission to cease the operation of their road during the winter season, for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof; and such board may, in their discretion, make an order granting the application wholly or in part, and thereupon such railroad corporation shall be relieved of the duty of operating its road during the period specified in the order. A copy of such order shall be posted in all the depots and at the termini of such railroad, and published in every newspaper in each town in any part of which such road shall be constructed at least four weeks prior to the date of such suspension.

§ 56. **Mails.**—Any railroad corporation shall, when applied to by the postmaster-general, convey the mails of the United States on its road, and in case such corporation and the postmaster-general shall not agree as to the rate of transportation therefor, and as to the

time, rate of speed, manner and condition of carrying the same, the board of railroad commissioners shall fix the prices, terms and conditions therefor, after giving the corporation a reasonable opportunity to be heard. Such price shall not be less for carrying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. If the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as herein provided.

Every railroad corporation refusing or neglecting to comply with any provision of this section shall forfeit to the people of the state one hundred dollars for every day such neglect or refusal continues. (*Thus amended by chap. 676, Laws 1892.*)

§ 57. Corporations must make annual report.— Every person or corporation owning, leasing, operating or in possession of a railroad, wholly or partly, in this state, shall make an annual report to the board of railroad commissioners of its operations for the year ending with June thirtieth, and of its condition on that day, which shall be verified by the oaths of the president, or treasurer, and the general manager, or acting superintendent, and shall be filed in the office of such board on or before September first in each year. Every such person or corporation shall make a quarterly and further reports to such board in the form and within the time prescribed by it. Such board may in its discretion change the date of the annual report and of filing the same, but the length of time between the date of the annual report and the filing of the same shall not be less than herein prescribed. Any person or railroad corporation which shall neglect to make any such report, or which shall fail to correct any such report within ten days after notice by the board of railroad commissioners, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day after September first on which it shall neglect to file the same, to be sued for in the name of the people of the state of New York, for their use.

The board of railroad commissioners may extend the time herein limited for cause shown. (*Thus amended by chap. 676, Laws 1892.*)

§ 58. When conductors and brakemen may be policemen.—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation or of any steamboat company, such additional policemen, designated by it, as he may deem proper, at any station, who shall have the same powers, but not more than one at any one station. Every such policeman shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state, who shall thereupon transmit to the county clerk of each county in which such policeman is authorized to act a certificate, under his hand and official seal, setting forth the appointment and the filing of the commission and oath, which certificate shall be filed by the county clerk. Every such policeman shall, when on duty, wear a metallic shield with the words "Railway police," or "Steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman, they may file notice to that effect in the several offices in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end.

§ 59. Requisites to exercise of powers of future railroad corporations.—No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the board of railroad commissioners; nor until the board of railroad commissioners shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association. The

foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If a certificate is refused no further proceedings shall be had before said board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the board shall certify a copy of all maps and papers on file in its office and of the findings of the board when so requested by the directors aforesaid. Such directors may thereupon present the same to a general term of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said general term shall have power, in its discretion, to order said board, for reasons stated, to issue said certificate, and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state, and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the facts therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto. This section shall not apply to street railroads. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE III.

CONSOLIDATION, LEASE, SALE AND REORGANIZATION.

SECTION 70. Consolidation of corporations owning continuous lines.

71. Conditions.

1. Joint agreement; amount of capital stock.

2. Agreement to be submitted to meeting of stockholders.

72. New corporation.

73. Creditors' right not to be impaired.

74. Assessment of property of new corporation.

75. Stock of municipal corporation, how represented.

76. Foreclosure of mortgages made by consolidated railroads partly in the state.

77. Powers of corporation of other states.

78. Lease of road.

79. Lessees of railroad may acquire stock therein.

SECTION 80. Consolidation and lease of parallel lines prohibited.

81. Mortgagees may purchase at foreclosure sale.

82. Certificates of stock may be issued after foreclosure in certain cases.

83. Liabilities of reorganized railroad corporations.

§ 70. **Consolidation of corporations owning continuous lines.**— Any railroad or other corporation, organized under the laws of this state, or of this state and any other state, and owning or operating a railroad, bridge or tunnel, either wholly within or partly within and partly without the state, or whose lines or routes of roads have been located but not constructed, may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad, tunnel or bridge corporation or corporations, organized under the laws of this state, or of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads, of the companies or corporations so to be consolidated, tunnels, bridges or branches or any part thereof, or the line or routes of their road, if not constructed, shall or may form a continuous or connected line of railroad with each other or by means of any intervening railroad bridge, tunnel or ferry, and any such consolidated corporation may thereupon construct or finish the construction of such continuous line of railroad, if not previously constructed, and operate the same, subject to all provisions of laws applicable to such railroad corporations. Where the road to be operated is in whole or in part a tunnel or subsurface road, authorized by section 16 of this chapter, its consolidation with another road or roads under the provisions of this section shall not prevent any connecting railroad from having equal rights of transit for its passengers and freight through or over the tunnel or bridge of any such road, upon the same equitable terms, or shall such consolidation be made where such tunnel or subsurface road exceeds five miles in length. (*Thus amended by chap. 676, Laws 1892.*)

§ 71. **Conditions.**— Such consolidation shall be made in the following manner:

1. **Joint agreement; amount of capital stock.**— The directors of the corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each corporation, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers

and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

2. Agreement to be submitted to meeting of stockholders. — If stockholders owning two-thirds of all the stock of each of such corporations shall, by a consent in writing, acknowledged as are deeds entitled to be recorded and indorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or a certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the

secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. (*Thus amended by chap. 876, Laws 1892.*)

§ 72. New corporations to be vested with all property and franchises of the old companies; may issue bonds to take up those of the original companies.— Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations. parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any

such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. (*Thus amended by chap. 362, Laws 1891.*)

§ 73. Creditors' rights not to be impaired.—The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

§ 74. Assessment of property of new corporation.—The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in a like manner as the real estate of other railroad corporations is or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation, shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

§ 75. Stock of municipal corporations, how represented. At any meeting of the stockholders of any railroad corporation to consider any agreement or proposition to consolidate, the commissioners or other officers of any municipal corporation holding or having charge of any of the capital stock of such railroad corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

§ 76. Foreclosure of mortgages made by consolidated railroads partly in the state.—Whenever a railroad corporation whose line of road lies partly in this state and partly in another state

or states, shall have been created by the consolidation of a railroad corporation of this state with a railroad corporation or corporations of another state or states, and shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the state or states in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the supreme court of this state in the judicial district in which some part of such line of road is situated; such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this state, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had, had been made by a court of competent jurisdiction of this state. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the supreme court, for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other state, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line or road or other property sold situate in this state, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be appointed by such court of competent jurisdiction of the state in which the greater part of the line of railroad is situated, such receiver may perform, within this state, the duties of his office, not inconsistent with the laws of this state, and may sue and be sued in the courts of this state.

§ 77. Powers of corporations of other states.—A railroad corporation created under the laws of the state in which the greater part of the line of such railroad may be situated, for the purpose of taking title to and operating the entire line of railroad, so sold as provided in the preceding section, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved, as therein provided, may hold, possess and operate that part of the line of such railroad lying in this state, and shall have all the rights and franchises theretofore possessed by the corporation executing the mortgage under which such sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this state, and shall be subject

to the duties and liabilities to which such corporation was by the laws of this state subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this state, provided that an exemplified copy of the certificate of incorporation under and by virtue of which such corporation is created, and of the judgment or decree under which the entire line of railroad was sold, and a certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, shall be filed in the office of the secretary of state for this state, and in the office of the county clerk of the county where its principal business office in this state is located.

§ 78. **Lease of road.**—Any railroad corporation, or any corporation owning or operating any railroad or railroad route within this state, may contract with any other such corporation for the use of their respective roads or routes, or any part thereof, and thereafter use the same in such manner and for such time as may be prescribed in such contract. Such contract may provide for the exchange or guaranty of the stock and bonds of either of such corporations by the other and shall be executed by the contracting corporations under the corporate seal of each corporation, and if such contract shall be a lease of any such road and for a longer period than one year, such contract shall not be binding or valid unless approved by a vote of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy at a meeting thereof, called separately for that purpose upon a notice stating the time, place and object of the meeting, served at least thirty days previously upon each stockholder personally, or mailed to him at his post-office address, and also published at least once a week, for four weeks successively, in some newspaper printed in the city, town or county where such corporation has its principal office, and there shall be indorsed upon the contract the certificate of the secretaries of the respective corporations under the seals thereof, to the effect that the same has been approved by such vote of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificate of incorporation of the contracting corporations are filed. The road of a corporation can not be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be

recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May 1, 1891. (*Thus amended by chap. 676, Laws 1892.*)

§ 79. Lessees of railroad may acquire stock therein.—Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

§ 80. Consolidation and lease of parallel lines prohibited. No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the

one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. (*Thus amended by chap. 676, Laws 1892.*)

§ 81. Mortgagee may purchase at foreclosure sale.— Any mortgagee of the property and franchise of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

§ 82. Certificates of stock may be issued after foreclosure in certain cases.— If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

§ 83. Liabilities of reorganized railroad corporations.— A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. This section shall not authorize the abandonment of any portion of a railroad which has been constructed and operated, or apply to Kings county.

ARTICLE IV.

STREET SURFACE RAILROADS.

SECTION 90. Street surface railroads; general provision.

91. Consent of property owners and local authorities.
92. Consent of local authorities: how procured.
93. Condition upon which consent shall be given: sale of franchise at public auction.
94. Proceedings if property owners do not consent.
95. Percentage of gross receipts to be paid in cities or villages: report of officers.
96. Extension of route over rivers: terminus in other counties: when property owners withhold consent: supreme court may appoint commissioners.
97. Use of tracks of other roads.
98. Repair of streets; rate of speed; removal of ice and snow.
99. Within what time road to be built.
100. Motive power.
101. Rate of fare.
102. Construction of road in streets where other road is built.
103. Abandonment of part of route.
104. Contracting corporations to carry for one fare; penalty.
105. Effect of dissolution of charter as to consents.
106. Corporate rights saved in case of failure to complete road: right to operate branches; conditions; former consents ratified; limitations.
107. When sand may be used on tracks.
108. Road not to be constructed upon grounds occupied by public buildings or in public parks.
109. Center-bearing rails prohibited.
110. Right to cross bridge substituted for bridge crossed for five years.

§ 90. **Street surface railroad; general provision.**— A corporation organized since May 6, 1884, for the purpose of building and operating or extending a street surface railroad or any of its branches, for public use in the conveyance of persons and property in cars for compensation, upon and along any street, avenue, road or highway, in any city, town or village, or in any two or more civil divisions of the state, must comply with the provisions of this article. A street surface railroad corporation may file in each of the offices in which its certificates of incorporation are filed, a statement of the names and descriptions of the streets, roads and highways in which it is proposed to extend its road. Upon filing such statement such corporation shall, except as otherwise prescribed by law, have the same power and privileges, to extend, construct, operate and maintain its road in such

streets, roads and highways as it acquired by its incorporation to construct, operate and maintain its road in the streets, roads and highways named in its certificate of incorporation. (*Thus amended by chap. 676, Laws 1892.*)

§ 91. Consent of property owners and local authorities.— Such railroad shall not be built, extended or operated, unless the consent in writing, acknowledged as are deeds entitled to be recorded, of the owners of one-half in value of the property bounded on, and also the consent of the local authorities having control of that portion of a street or highway upon which it is proposed to build or operate such railroad shall have been first obtained. In cities the common council, acting subject to the power now possessed by the mayor to veto ordinances; in villages the board of trustees, and in towns the town board shall be the local authorities referred to; if in any city, the exclusive control of any street, avenue or other property, which is to be used or occupied by any such railroad, is vested in any other authority, the consent of such authority shall also be first obtained. The value of the property above specified shall be ascertained and determined by the assessment-roll of the city, village or town in which it is situated, completed last before the local authorities shall have given their consent, except property owned by such city, village or town, the value of which shall be ascertained and determined by making the value thereof to be the same as is shown by such assessment-roll to be the value of the equivalent in size and frontage of the adjacent property on the same street or highway; and the consent of the local authorities shall operate as the consent of such city, village or town as the owners of such property. But where such railroad runs through a street or avenue, bounded on one side by a public square or park, the consent of one-half of the property owners on the other side of such street or avenue and opposite to such square or park shall also be first obtained. (*Thus amended by chap. 676, Laws 1892.*)

§ 92. Consent of local authorities ; how procured.— The application for the consent of the local authorities shall be in writing, and before acting thereon such authorities shall give public notice thereof and of the time and place when it will first be considered, which notice shall be published daily in any city for at least fourteen days in two of its daily newspapers if there be two, if not, in one, to be designated by the mayor, and in any village or town for at least fourteen days in a newspaper published therein, if any there shall be, and if none, then daily in two daily newspapers if there be two, if not, one published in the city nearest such village or town. Such con-

sent must be upon the expressed condition that the provisions of this article pertinent thereto shall be complied with, and shall be filed in the office of the clerk of the county in which such railroad is located. (*Thus amended by chap. 676, Laws 1892.*)

§ 93. Condition upon which consent shall be given ; sale of franchise at public auction.—The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amount and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal officer of the city for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated, according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and, further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in writing and under

seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route and routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to requirement and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given, must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily newspapers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentage of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to operate and use such railroad forfeited and authorizing the sale again of the same

in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities shall cease and determine at the expiration of two years thereafter, and every such consent heretofore given to a corporation incorporated under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four for the purpose of constructing and operating a street surface railroad only wholly south of the Harlem river shall continue until June 30, 1893, when it shall cease, unless prior thereto the consent of a sufficient number of the property owners or the order of the general term in lieu thereof shall have been first obtained, and the provisions of this section shall apply to all applications for such consents, made under any statute either before or after the passage of this chapter, and not finally acted upon at the time of its passage. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection can not be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever, for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street surface railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section.

Nothing herein contained shall be construed as applying to affecting or modifying the terms of a certain contract bearing date January 1, 1892, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in such contract. (*Thus amended by chap. 676, Laws 1892.*)

***§ 93. Condition upon which consent shall be given ; sale of franchise at public auction.**—The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form or amount and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal officer of the city for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated, according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and, further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be

*By reason of section 33 of the statutory construction law, there may be a question as to which of these two amendments supersedes the other. Both are therefore inserted here.

sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route and routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the company first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to requirement and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given, must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily newspapers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentage of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to operate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale shall be authorized except upon the condition that the same

shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities shall cease and determine at the expiration of two years thereafter, and all such consents heretofore given shall continue until June 30, 1893, when it shall cease, unless prior thereto the consent of a sufficient number of the property owners or the order of the general term in lieu thereof shall have been first obtained, and the provisions of this section shall apply to all applications for such consents, made under any statute either before or after the passage of this chapter, and not finally acted upon at the time of its passage. Whenever it shall be desired to unite two street surface railroads or railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection can not be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever, for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street surface railroad, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this article, for the purposes, at the times, in the manner and upon the conditions set forth in such section. (*Thus amended by chap. 306, Laws 1892.*)

§ 94. Proceedings if property owners do not consent.—

If the consent of property owners required by any provision of this article can not be obtained, the corporation failing to obtain such consents may apply to any general term of the supreme court held in the department in which it is proposed to construct its road for the appointment of three commissioners to determine whether such railroad ought to be constructed and operated. Notice of such application must, at least ten days prior thereto, be served, personally upon each non-consenting property owner by delivering the same to

the person to whom such property is assessed upon such assessment-roll or by duly mailing the same, properly folded and directed, to such property owner at his post-office address with the postage prepaid thereon. If the person upon whom service is to be made is unknown, or his residence and post-office address are unknown and can not by reasonable diligence be ascertained, service of such notice may be made by publishing the same in such newspaper of the county as the court may direct, at least once a week for two successive weeks. Upon due proof of service of such notice the court to which the application is made shall appoint three disinterested persons, who shall act as commissioners, and who shall, within ten days after their appointment, cause public notice to be given of their first meeting in the manner directed by the court, and may adjourn from time to time, until all their business is completed. Vacancies may be filled by the court after such notice to parties interested as it may deem proper to be given; and the evidence taken before as well as after the happening of the vacancy shall be deemed to be properly before such commissioners. After a public hearing of all parties interested, the commissioners shall determine whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to the general term, within sixty days after appointment, unless the court, or a judge thereof, for good cause shown, shall extend such time; and their determination that such road ought to be constructed and operated, confirmed by such court, shall be taken in lieu of the consent of the property owners hereinbefore required. The commissioners shall each receive ten dollars for each day spent in the performance of their duties and their necessary expenses and disbursements, which shall be paid by the corporation applying for their appointment. (*Thus amended by chap. 676, Laws 1892.*)

§ 95. **Percentage of gross receipts to be paid in cities or villages; report of officers.**—Every corporation building or operating a railroad, or a branch or extension thereof, under the provisions of this article, or of chapter 252 of the laws of 1884, within any city of this state having a population of 1,200,000 or more, shall for and during the first five years after the commencement of the operation of any portion of its railroad annually, on November first pay into the treasury of the city in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending September thirtieth next preceding

and after the expiration of such five years, make a like annual payment into the treasury of the city to the credit of the same fund, of five per cent of its gross receipts. If a street surface railroad corporation existing and operating any such railroad in any such city on May 6, 1884, shall have thereafter extended its tracks or constructed branches therefrom, and shall operate such branches or extensions under the provisions of chapter 252 of the laws of 1884, or of this article, such corporation shall pay such percentages only upon such portion of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of such extension or branches shall bear to the entire length of its line. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this article, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of the city or village as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner heretofore provided. The corporation failing to pay such percentage of its gross earnings, shall, after November first, pay in addition thereto five per cent a month on such percentage until paid. The president and treasurer of any corporation required by the provisions of this article to make a payment annually upon its gross receipts shall, on or before November first in each year, make a verified report to the comptroller or chief fiscal officer of the city of the gross amount of its receipts for the year ending September thirtieth, next preceding, and the books of such corporation shall be open to inspection and examination by such comptroller or officer or his duly appointed agent, for the purpose of ascertaining the correctness of its report as to its gross receipts. The corporate rights, privileges and franchises acquired under this article or such chapter by any corporation, which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the state, and upon judgment of forfeiture rendered in an action brought in the name of the people by the attorney-general, shall cease and determine. (*Thus amended by chap. 676, Laws 1892.*)

§ 96. Extension of route over rivers; terminus in other counties; when property owners withhold consent supreme court may appoint commissioners.—Any street railroad except in the counties of New York or Kings, now in operation in this state, which, shall, by a two-thirds vote of its directors, decide to extend the route of its road, so as to cross the Hudson river over

and by any bridge now or hereafter constructed under the provisions of any law of this state, may so extend their route over and across such bridge upon such terms as may be mutually agreed upon between it and such bridge company, and may locate the terminus of their road in the county adjoining the one in which their road is now located and in operation. Upon first obtaining the consent of such bridge company or its lessees, and the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, or in case the consent of such property owners can not be obtained the general term of the supreme court in the district in which it is proposed to be constructed may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 97. **Use of tracks of other roads.**—Any railroad corporation in this state, whose cars are run and operated by horses or other motive power, authorized by this article, upon the surface of the street, excepting in the city and county of New York, may, for the purpose of enabling it to connect with and run and operate its cars between its tracks, and a depot or car-house owned by it, run upon, intersect, and use, for not exceeding five hundred feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner with the necessary connections and switches for the proper working and accommodation of the cars upon such tracks, and in connection with such depot or car-house, upon paying therefor such compensation as it may agree upon with the corporation owning the tracks to be so run upon, intersected, and used; and in case such corporations can not agree upon the amount of such compensation, the same shall be ascertained and determined in the manner prescribed in the condemnation law.

§ 98. **Repair of streets; rate of speed; removal of ice and snow.**—Every street surface railroad corporation so long as it shall continue to use any of its tracks in any street, avenue or public place in any city or village, shall have and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks, and two feet in width outside its tracks, under the supervision of the proper local authorities, and

whenever required by them to do so, and in such manner as they may prescribe. In case of the neglect of any corporation to make pavements or repairs after the expiration of thirty days notice to do so, the local authorities may make the same at the expense of such corporation, and such authorities may make such reasonable regulations and ordinances as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest or convenience of the public may require. A corporation whose agents or servants wilfully or negligently violate such an ordinance or regulation, shall be liable to such city or village for a penalty not exceeding five hundred dollars to be specified in such ordinance or regulation. (*Thus amended by chap. 676, Laws 1892.*)

§ 99. **Within what time road to be built.**— In case any such corporation shall not commence the construction of its road or of any extension thereof, within one year after it has obtained the consent of the local authorities and property owners, or the determination of the general term as herein required, and shall not complete the same within three years after obtaining such consents, its rights, privileges and franchises shall cease and determine. If the performance of any such act, within such time, is prevented by legal proceeding, such court may also extend such time during the time that performance is so prevented. The time for compliance with the requirements of this section by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad only, wholly south of the Harlem river and in cities of over twelve hundred thousand inhabitants and which has heretofore obtained such consents, is hereby extended until June 30, 1893. (*Thus amended by chap. 676, Laws 1892.*)

§ 100. **Motive power.**— Any street surface railroad may operate any portion of its road by animal or horse power, or by cable, electricity, or any power other than locomotive steam power, which may be approved by the state board of railroad commissioners, and consented to by the owners of one-half of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed; and if the consent of such property owners can not be obtained, the determination of three disinterested commissioners, appointed by the general term of the supreme court of the department in which such railroad is located, in favor of such motive power, confirmed by the court, shall be taken in lieu of the consent of the property owners. The consent of the property owners shall be

obtained and the proceedings for the appointment and the determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections 91 and 94 of this article so far as the same can properly be made applicable thereto.

Any railroad corporation making a change in its motive power under this section, may make any changes in the construction of its road or roadbed or other property rendered necessary by the change in its motive power. (*Thus amended by chap. 676, Laws 1892.*)

§ 101. **Rate of fare.**—No corporation constructing and operating a railroad under the provisions of this article, or of chapter 252 of the laws of 1884, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road, line or branch operated by it, or under its control, to any other point thereof, or any connecting branch thereof, within the limits of any incorporated city or village. Not more than one fare shall be charged within the limits of any such city or village, for passage over the main line of road and any branch or extension thereof if the right to construct such branch or extension shall have been acquired under the provisions of such chapter or of this article. This section shall not apply to any part of any road constructed prior to May 6, 1884, and then in operation, unless the corporation owning the same shall have acquired the right to extend such road, or to construct branches thereof under such chapter, or shall acquire such right under the provisions of this article, in which event its rate of fare shall not exceed its authorized rate prior to such extension. The legislature expressly reserves the right to regulate and reduce the rate of fare on any railroad constructed and operated wholly or in part under such chapter or under the provisions of this article. (*Thus amended by chap. 676, Laws 1892.*)

§ 102. **Construction of road in street where other road is built.**—No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is, or shall be lawfully constructed, except for necessary crossings or, in cities, villages and towns of less than 1,250,000 inhabitants, over any bridge, without first obtaining the consent of the corporation owning and maintaining the same, except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and in cities, villages and towns of less than 1,250,000 inhabitants shall have the right to lay its

tracks upon and run over and use any bridge used wholly or in part as a foot bridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, or to connect said railroad with a ferry, and that the public convenience requires the same, in which event the right to such use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose, by notice in writing, signed by a majority of the directors of such corporation stating the time, place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is wholly or partly in the same city. (*Thus amended by chap. 676, Laws 1892.*)

***§ 102. Construction of road in street along or across where other road is built.**—No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is, or shall be lawfully constructed, except for necessary crossings, without first obtaining the consent of the corporation owning and maintaining the same except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, or to connect said railroad with a ferry, and that the public convenience requires the same, in which event the right to such use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be ap-

* By reason of section 83 of the statutory construction law, there may be a question as to which of these two amendments supersedes the other. Both are therefore inserted here.

pointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the corporation whose tracks may be so used. (*Thus amended by chap. 306, Laws 1892.*)

§ 103. **Abandonment of part of route.**—Any street surface railroad corporation which is the lessee or lessor, or both, or which has the right to use the route or portion of the route of another such corporation pursuant to a lease or agreement lawfully entered into with it, may declare any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract, to be relinquished or abandoned. Such declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. (*Thus amended by chap. 676, Laws 1892.*)

§ 104. **Contracting corporations to carry for one fare; penalty.**—Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public con

venience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. (*Thus amended by chap. 676 Laws 1882.*)

§ 105. Effect of dissolution of charter as to consents.— Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroads shall be, in the same manner as is provided in section 93 of this article. When such sale shall have been so made, the purchaser thereat shall have the right to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. (*Thus amended by chap. 676, Laws 1882.*)

§ 106. Corporate rights saved in case of failure to complete road; right to operate branches; conditions; former consents ratified; limitations.—The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall

continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extentions* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extentions* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extension* or branches thereof, upon condition that it has heretofore, or shall hereafter, obtain the consent of the local authorities having the control of that portion of the streets, avenues or highways included in such railroad, or any extension or branches thereof, to the construction and operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of such railroad, or any extension* or branches thereof, to the construction and operation of the same or in case the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all the parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. All consents heretofore given, or grants made by local authorities having the control of the portion of any street, avenue or highway included in the route of such railroad, or any extensions or branches thereof, to any such street surface railroad corporation, are hereby ratified and confirmed and declared valid. This section shall be applicable to any such corporation in any town, city or village having less than twenty thousand inhabitants which has completed any portion of its road upon the route designated in its certificate of incorporation within the time required by law for the completion of its road. This section shall not apply to or affect any railroad corporation in the city of New York; nor any special grant made to or authority conferred upon any street surface railroad corporation by any law of this state nor any pending litigation; nor shall it impair existing rights privileges or franchises of any street surface railroad corporation (*Thus amended by chap. 676, Laws 1892.*)

* So in the original.

*** § 107. When sand may be used on tracks.**—The owner or operator of any street surface railroad in cities of this state having a population of five hundred thousand or more, may place upon the space between the rails of such road sand in sufficient quantities and no more to prevent the horses traveling thereon from slipping. (*Thus amended by chap. 676, Laws 1892.*)

*** § 108. Road not to be constructed upon ground occupied by public buildings or in public parks.**—No street surface railroad shall be constructed or extended upon ground occupied by buildings belonging to any town, city, county or to the state, or to the United States, or in public parks, except in tunnels to be approved by the local authorities having control of such parks. (*Thus amended by chap. 676, Laws 1892.*)

§ 109. Center-bearing rails prohibited.—No street surface railroad corporation shall hereafter lay down in the streets of any incorporated city or village of this state what are known as "center-bearing" rails; but in all cases, whether in laying new track or in replacing old rails, shall lay down "grooved" or some other kind of rail not "center-bearing" approved by the local authorities. Such grooved or other rail shall be of such shape and so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange to the car wheel.

Where in any city, the duty of repairing and repaving streets, as distinguished from the authorization of such paving, repairing and repaving, is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this section. (*Thus amended by chap. 676, Laws 1892.*)

§ 110. Right to cross bridge substituted for bridge crossed for five years.—Should any street surface railroad company have crossed any bridge as a part of its route for a period of more than five years and should any other bridge be substituted therefor at any time, such company shall have the right to cross such substituted bridge and to lay and use railway tracks thereon for the transit of its cars and to make all changes and extensions of its route subject to all the provisions of this act, as the convenient operation of its cars and the public convenience may require. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE V.

OTHER RAILROADS IN CITIES AND COUNTIES.

- SECTION 120. Application for railway ; commissioners.
 121. Oath and bond of commissioners.
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 136. Abandonment or change of route ; new commissioners ; their power and proceedings.
 137. Increased deposit ; when and how required
 138. Trains to come to full stop, etc.
 139. Gates.
 140. Penalty for violation of this article.
 141. Sections to be printed and posted.
 142. Extension of time.

§ 120. **Application for railway ; commissioners.** — Upon the application of at least fifty reputable householders and taxpayers of any county or city, verified upon oath before a justice of the supreme court, that there is need in said county or city of a steam railway in the streets, avenues and public places thereof for the transportation of passengers, mails or freight, the board of supervisors of such county may, within thirty days thereafter by resolution, approve of the application, and authorize its presentation to the supreme court, and if the railway is to be built wholly within the limits of a city, upon the application of a like number of householders and taxpayers of the city to the mayor thereof, such mayor may, within thirty days thereafter, indorse upon the application his approval and direction that it may be presented to the supreme court, and if the railway is to be built, partly within the limits of a city and partly without, such application shall be approved, both by the mayor of the city and

the board of supervisors of the county, and its presentation to the supreme court authorized by them, and upon the presentation of such application so approved and authorized to a special term of the supreme court, held in the district where such railway is to be built, or some part thereof, the court may appoint five commissioners, resident of the city if the railway is to be built wholly within the city, and of the county, if it is to be built wholly or partly outside of the limits of a city, to determine the necessity of such railroad, the route thereof, the time within which and the conditions upon which it shall be constructed, the damages to the property owners along the line thereof and all the matters lawfully submitted to them, and discharge the duties imposed upon them by law.

§ 121. **Oath and bond of commissioners.**— Within ten days after his appointment and before entering upon the discharge of any of the duties of his office, each commissioner shall take and subscribe the constitutional oath of office, which shall be filed in the office of the clerk of the county and shall execute a bond to the people of the state in the penal sum of twenty-five thousand dollars, with two or more sureties, to be approved by a justice of the supreme court of the department in which the railway is to be built and conditioned for the faithful performance of the duties of the office, which bond shall be filed in the office of the clerk of the county.

§ 122. **First meeting of commissioners.**— Within fifteen days after their appointment, the commissioners shall meet in some convenient place in the county or city and organize themselves as a board with appropriate officers.

§ 123. **Determination of necessity of railroad and route.**— The commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railroad, and if they find it to be necessary, they shall, within sixty days after such organization fix and determine the route therefor, and shall have the exclusive power to locate such route, over, under, through or across the streets, avenues, places or lands in such county or city, and to provide for the connection or junction with any other railway or bridge, if the consent of the owners of one-half in value of the property bounded on and the consent of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway have been first obtained. If the consent of such property owners can not be obtained, the determination of three commissioners appointed by the general term of the supreme court of the

department where the railroad is to be constructed, made after due hearing of all parties interested, and confirmed by the court, that such railway ought to be constructed and operated, may be taken in lieu of the consent of such property owners. No such railway shall be located in or upon such portion of any street, avenue, place or lands in such county as are now occupied by an elevated or underground railway or in which such railway has already been authorized by law to be so located and constructed, or which are contained in public parks, or occupied by buildings belonging to the county or the state or United States, or in or upon the following streets, avenues and public places, viz.: Broadway, Fifth avenue, Fourth avenue above Forty-second street, in the city of New York; Debevoise place, Irving place, Lefferts place, those portions of Grand, Classon and Franklin avenues and Dowling street lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, that portion of Classon avenue lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and that portion of Washington avenue lying between Park and Atlantic avenues in the city of Brooklyn; and that portion of the city of Buffalo lying between Michigan and Main streets, but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places. (*Thus amended by chap. 676, Laws 1892.*)

§ 124. Adoption of plans, and terms upon which road shall be built.—The commissioners by such public notice, and under such conditions, and with such inducements as they may prescribe, shall invite a submission of plans for the construction and operation of such railway, and shall meet at a time and place in such notice named, not more than ninety days after their organization, and decide upon plans for the construction thereof, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances, upon the route or location determined upon by them. They shall upon notice to the local authorities, and after hearing all parties interested, fix and determine what compensation, if any, in a gross sum, or in a certain percentage of receipts shall annually be paid to the local authorities by the corporation formed for the purpose of constructing, maintaining and operating such railway for public use in the conveyance of persons and property, for the use and occupation by the corporation of the streets, avenues and highways in and upon which its railway is to be con

structed, and the time when such railway, or a portion thereof, shall be constructed and ready for operation, and the maximum rates to be paid for transportation and conveyance thereon, and the hours during which special cars or trains shall be run at reduced rates of fare; and the amount of the capital stock of such corporation and the number of shares into which it shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares.

The commissioners may select two or more routes, upon one of which such railway may be constructed and operated; and the local authorities may consent to the construction and operation of such railway upon one or more of such routes, or parts thereof; and the commissioners shall have power to change and readopt routes and plans for the construction and operation of such railway, after they have been submitted to the local authorities, in cases where such authorities may recommend such changes, or may not be willing to consent to the construction or operation of the railway, upon the routes, and plans adopted, unless such changes are made therein. (*Thus amended by chap. 676, Laws 1892.*)

§ 125. Appraisal of damages and deposit of money as security.—The commissioners shall, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in the value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway to be caused by the construction and operation thereof. For that purpose they shall view the several parcels of real property so bounded, and shall appraise separately the pecuniary damages arising from such diminution in value of each parcel thereof, and for the purposes of such appraisals they shall give notice of the time and place, when and where they will meet to hear the owners, or persons interested in such real property, which notice shall be published for at least ten days consecutively in at least two newspapers in the county where such railway is to be constructed, and shall take such material testimony upon the probable diminution in value of any or all such parcels to be so caused as may be offered by or in behalf of any person or party interested therein, and the aggregate sum of the amounts so appraised and determined by them shall be the aggregate pecuniary damage required to be ascertained and determined as above provided. No corporation which shall hereafter be organized under this article shall enter upon any street, highway or lane therein, until it shall first have deposited with some trust company, to be desig-

adjourned, a majority in number and amount of such subscribers may elect persons, of a number to be theretofore determined by the commissioners not less than nine, who shall be directors for one year of the corporation formed for the purposes of constructing and operating such railway.

§ 128. Commissioners to deliver certificate; affidavit of directors. — Within ten days after the election of such directors the commissioners shall deliver to them a certificate in duplicate, verified by the oath of three commissioners, before a justice of the supreme court, setting forth the certificate of incorporation and the organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificates, three of the directors so elected shall make affidavit in duplicate that the full amount of stock has been subscribed in good faith to construct, maintain and operate the railway or railways in such certificate of incorporation mentioned, and such directors shall file such affidavits and certificate in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railway shall be located; and thereupon the persons who have so subscribed such certificate of incorporation and all persons who shall become stockholders in such corporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporations.

§ 129. Powers. — Every such corporation shall have power, in addition to the powers conferred by the general and stock corporation laws and by subdivisions two, five and seven of section eight of this chapter:

1. To take and convey persons and property on their railroad by the power or force of steam or by any motor other than animal power, and to receive compensation therefor.

2. To enter upon and underneath the several streets, avenues and public places and lands designated by the commissioners, and enter into and upon the soil of the same, to construct, maintain, operate and use in accordance with the plan adopted by the commissioners, a railway upon the route or routes and to the points decided upon and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon such plan and for operating the same; and to make such excavations and openings along the route through which such

railway shall be constructed as shall be necessary from time to time. In all cases the surface of the streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and any interference with or change in the water mains, or in the sewers or lamp posts, except such changes as may be made with the concurrence of the proper department or authority shall be avoided; and the use of the streets, avenues, places and lands designated by the commissioners and the right of way through the same for the purpose of a railway, as herein authorized, shall be considered and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held. No such corporation shall have the right to acquire the use or occupancy of public parks or squares in any such city or county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction, and no such railway shall be constructed across the track of any steam railway now in actual operation at the grade thereof, nor shall any piers or supports for any elevated railway be erected upon a railway track now actually in use in any street or avenue; and no such corporation shall construct a street surface railroad to run in whole or in part upon the surface of any street or highway under the provisions of this article.

§ 130. Crossing of horse railroad track.—Whenever the route selected by the commissioners for the construction of such railway shall intersect, cross or coincide with any horse railway track occupying the surface of the street or avenues, such railway corporation is hereby authorized to remove, for the purpose of constructing its road, the tracks of such horse railway; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of such railway, where such removals or changes have been made, the same shall be restored as near as may be to the condition in which they were previous to the construction of such railroad. All such removals and restorations shall be made at the proper cost and charges of such corporation, but no authority is herein given to any such corporation to use the tracks of any horse railway.

§ 131. Where route coincides with another route.—Whenever the route or routes determined upon by the commissioners coin-

cide with the route or routes covered by the charter of an existing corporation, formed for the purpose of constructing and operating such a railway, and it has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time therein prescribed, such corporation shall have the like power to construct and operate such railway upon the fulfillment of the like requirements and conditions imposed by the commissioners as a corporation specially formed under this article, and the commissioners may fix and determine the route or routes by which any elevated steam railway now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries, upon making compensation therefor, and in case such corporations can not agree with the owners of such steam railways, depots or ferries upon the amount of such compensation, and such owners may be entitled to compensation therefor, the amount of such compensation shall be ascertained and paid in the manner prescribed in the condemnation law, and upon fulfillment by such elevated railway corporation, and so far as it relates to such connection, of the requirements and conditions imposed by this article, it shall possess all the powers conferred by section 129 of this article, and when any connecting route or routes shall be so designated, such elevated railway corporation may construct such connection with all the rights and with like effect as though the same had been part of the original route of such railway. (*Thus amended by chap. 676, Laws 1892.*)

§ 132. **Commissioners to transfer plans, etc.**—Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the commissioners shall transfer and deliver to the corporation all plans, specifications, drawings, maps, books and papers in their possession, and they shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this article, after deducting therefrom the necessary expenses incurred by the commissioners and the amounts due to them for their salaries.

§ 133. **Commissioners to file report; confirmation thereof.**—The commissioners shall within one hundred and forty days after their appointment, make a report to a special term of the supreme court of the department in which such railway may be located, of the amount of the pecuniary damage arising from the diminution of the value of each parcel of property bounded on that portion of the

street or streets, highway or highways, upon which it is proposed to construct such railway or railways, which will be caused by the construction, maintenance and operation thereof. The name and place of residence of the owner or owners of each parcel shall be stated if the same are known, or can be ascertained, and if not known the name of the person or persons appearing by the certificate of the clerk or register of the county, to have the title thereto from the records in his office, and a specific description of each parcel of property with reasonable certainty. The testimony, if any, taken by the commissioners as to the amount of such damage, shall accompany their report. Within thirty days after filing and recording its certificate of incorporation, the corporation authorized to construct and operate such railway or railways shall move to confirm such report by giving notice of such motion to the property owners in the manner in which notice of the time and place of hearing before the commissioners is required by section 125 to be given, and if the corporation fails to so move, any property owner may make the motion; and thereafter the proceedings shall be conducted in the manner prescribed in the condemnation law. Before constructing and operating its railway in front of any real property bounded upon any street, avenue or public place wherein the corporation is authorized by the certificate and report of the commissioners to construct and operate its road, such corporations shall pay to the owner of the real property the damages sustained or which will be sustained by him in consequence thereof, as finally fixed and ascertained, and the costs allowed him, if any, and the court may direct that such damages be paid out of the moneys deposited pursuant to the provisions of section 125, or in case negotiable securities shall have been deposited in lieu of money, that so much of such securities shall be sold as may be necessary to raise the amount required to be paid to such owner for damages and costs if any. If a bond shall have been executed in lieu of such deposit, the court may order the sureties in such bond to pay the damages so fixed and ascertained, and in default thereof, may cause them to be proceeded against and punished as for a contempt of court. (*Thus amended by chap. 676, Laws 1892.*)

§ 134. **Pay of commissioners.**— Each of the commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, and all expenses necessarily incurred by him in the discharge of his duties, to be paid by such corporation, but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the commissioners

shall receive no salary, and shall cause to be returned to the subscribers for such stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by the commissioners, but the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited by this article.

§ 135. Quorum; term of office; removal; vacancies in board of commissioners.—A majority of the members of any board of commissioners appointed under this article shall be a quorum for the transaction of any business or the performance of any duty or function, or the exercise of any power, conferred or enjoined upon them. Any commissioner may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity to be heard in defense; and no commissioner thus removed is, or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner the vacancy shall be filled by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by some member of the board, or by the corporation hereinafter mentioned, of such death or resignation, and a certificate of every such appointment shall be filed as hereinbefore required. Except as otherwise provided by law, the terms of office of the commissioners shall determine and expire with the performance of their functions as hereinabove prescribed.

§ 136. Abandonment or change of route; new commissioners; their powers and proceedings.—Any corporation heretofore organized or hereafter to be organized under this article, its successors or assigns, which shall have constructed or put in operation a railway upon a part and not upon the whole of the route fixed, determined and located for such railway by a board of commissioners, may at any time apply for authority to abandon any portion of the route upon which the railway shall not have been theretofore constructed or shall not then be in operation, with or without a change and relocation of such portion, and with or without extension of the portion not abandoned, or of any part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of the route so desired to be changed or abandoned shall be situated, which is not within the limits of any city, or if such route, or any part thereof,

shall be within the limits of a city, to the mayor of the city, for the route or portion thereof within such city. Five commissioners may be appointed pursuant to such an application as hereinafter provided, who shall be residents of the county or city and who shall have full power as herein provided. When such application is made by a corporation heretofore organized such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors, or, as the case may be, by such mayor. When such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or, as the case may be, such mayor, may within thirty days after presentation of such application, indorse thereon their or his approval and direction that it may be presented to the supreme court in the manner provided in section 120 of this article, and such court may thereupon appoint such commissioners. Within ten days after his appointment each commissioner so appointed shall take, subscribe and file the oath and give and file the bond prescribed by section 121 of this article; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as herein provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers. Such board shall have all the authority conferred by law upon commissioners appointed or authorized to be appointed under this article. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization such board shall hear the application of the corporation, and all parties who may be interested therein, and within sixty days after their organization they shall determine whether any part of such route should be authorized to be abandoned, or should be changed and relocated with or without extension or extensions. If the board shall determine that no abandonment of any part or the route should be allowed, and that no change and relocation of any part thereof should be effected, and that no extension should be made, the board shall dismiss the application. If the board shall determine that an abandonment of any portion of the route should be allowed, or that any change in or extension thereof should be made, the board shall proceed to authorize and require the same upon such conditions as to the board shall seem proper, and with or without extension of the remainder

of the route or of any part thereof, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the part of the route theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the part of the route theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route as so changed and fixed, determined and located. Neither such corporation nor any assign or successor thereof shall thereafter have any authority, by reason of anything done under this article to operate or construct any railway upon any portion of the route by the board so required to be abandoned. The board shall also fix and determine the time within which the railway by it authorized and required upon any portion of the route so changed, shall be reconstructed and ready for operation. If the railway on any portion of the route not by the board changed or allowed to be abandoned, shall not have been theretofore constructed and made ready for operation, the board may extend, and fix and determine anew the time within which such railway shall be completed, but such extension of time shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route theretofore located should be allowed to be abandoned, with or without a change or relocation thereof or any part thereof, and with or without extension, or if the board shall have extended the time within which such railway shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion of the route, if any there be, as so fixed, determined and located anew, and the part, if any there be, of the route allowed to be abandoned, and stating the period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete it within the time, if any so limited, shall work a forfeiture to the supervisors of the county if no part of the road is within a city, or in any city, to such city, of the rights and franchises of such corporation with respect to that portion of the route so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be of said route, upon which a railway shall not be constructed within the time so limited; but the time, if any, unavoidably consumed by the pendency of legal proceedings, shall not be deemed a part of any period of time limited in this article, and any recital of any

forfeiture of any of the rights or franchises prescribed by any commissioners heretofore appointed, to be the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the board of supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map as hereinabove directed, showing the line and location of each and all the routes, with or without the extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the route or routes as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the secretary of state, and the duplicate thereof in the office of the clerk of the county wherein such railway shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to construct, maintain and operate a steam railway for the transportation of passengers, mail and freight, upon the route or routes so fixed, determined and located, and in said report described, but the construction or operation of a railway upon any new location or selection of route is not and shall not be thus authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners, to be upon application appointed by the general term of the supreme court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested that such railway ought to be constructed or operated, which determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Such corporation is and the successors and assigns thereof shall be authorized to maintain and operate all the railroads and the appurtenances thereof by it or by them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this article, and to complete within the time in and by such report so extended fixed, and determined anew, and thereafter to maintain and operate the railway and the appurtenances, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the

same rights and effect, in all respects, as if such extended period of time had been originally fixed and determined, and in the original certificate of incorporation of such corporation recited, for completing such railway and putting it in operation. The other terms and conditions in and by such certificate mentioned and prescribed, except as the same are hereinbefore modified or may be modified by the board as hereinabove authorized, shall apply to the railway herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles or certificates themselves prescribed. If a new location or extension of routes shall be fixed and determined by commissioners who shall have been appointed by the court pursuant to this section, they shall also ascertain and determine the aggregate pecuniary damages arising from the diminution of value of the property bounded on that portion of the street or highway upon the line of such new location or extension and of each parcel of real property so bounded, and their proceedings thereupon shall be conducted in the same manner and upon the like notice as the proceedings for that purpose before the commissioners specified in section 125, and shall make to the supreme court the report required by section 133, and thereupon the same proceedings shall be had as are provided for in such last named section. Each commissioner shall be paid for his services at the rate of ten dollars per day for each day of actual services as such commissioner, and all reasonable expenses incurred by him in or about any of the matters referred to such board, to be paid by the corporation making the application so heard and determined. No corporation shall be authorized under this section to extend, abandon or change the location of its route, or any part thereof, where the greater portion of the route or routes is or shall be in that portion of the city of New York south or west of Harlem river, or of any route or part thereof in the city of Brooklyn, or county of Kings, or to construct, extend, abandon or change the location of any railway or route for a railway over, under, through or across any street, avenues, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway might not by law be constructed, or was not by law authorized to be by a board of commissioners located on the fifth day of June, 1888. (*Thus amended by chap. 676, Laws 1892.*)

§ 137. Increased deposit, when and how required.—In case any of the securities deposited in lieu of money as provided in section one hundred and twenty-five, shall in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the county treasurer or trust company shall call upon such railway corporation to substitute therefor other securities equivalent at their par or market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the county treasurer or trust company shall call upon such corporation to furnish as a substitute, and it shall so furnish an amount of money equal to the amount in lieu of which the securities first above referred to were deposited.

§ 138. Trains to come to full stop, etc.—All trains upon elevated railroads shall come to a full stop before any passengers shall be permitted to leave such train; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same, but no person shall be permitted to enter or board any train after due notice from an authorized employe of such corporation that such train is full and that no more passengers can be then received.

§ 139. Gates.—Every car used for passengers upon elevated railroads shall have gates at the outer edge of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

§ 140. Penalty for violation of this article.—Any elevated railroad corporation that shall fail or neglect to comply with or enforce the provisions of this article, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation, and proof of such failure or neglect, pay to the clerk of the court wherein such petition was made, a sum not less than two hundred and fifty

nor more than one thousand dollars, as such court may direct by its order. The sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which the proceedings is had, at such time, as the board of supervisors or board of aldermen in any such county shall direct. Nothing in this section shall relieve elevated railroad corporations from any liability under which they may now be held by existing laws for damages to persons or property. (*Thus amended by chap. 676, Laws 1892.*)

§ 141. **Sections to be printed and posted.**—The officers and board of directors of such railroad corporations shall cause copies of sections one hundred and thirty-eight, one hundred and thirty-nine and one hundred and forty to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

§ 142. **Extension of time.**—The time within which any act is required to be done under this article may be extended by the supreme court for good cause shown, for one year, and but one extension will be granted. Any company that has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated, notwithstanding any failure on the part of commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE VI.

THE BOARD OF RAILROAD COMMISSIONERS.

SECTION 150. Appointment and term of office of railroad commissioners.

151. Suspension from office.

152. Secretary and marshal of board.

153. Additional officers; their duties.

154. Oath of office; eligibility of officers of board.

155. Principal officer and meetings of board.

156. Quorum of board.

157. General powers and duties of board.

158. Reports of railroad corporations.

159. Investigation of accidents.

160. Recommendations of board where law has been violated.

161. Recommendations of board when repairs or other changes are necessary.

162. Legal effect of recommendation and action of the board.

163. Corporation must furnish necessary information.

SECTION 164. Attendance of witnesses and their fees.

165. Fees to be charged and collected by the board.

166. Annual report of board.

167. Certified copies of papers filed to be evidence.

168. Acts prohibited.

169. Salaries and expenses of members and officers of the board.

170. Total annual expense to be borne by railroads.

171. Application of this article.

§ 150. **Appointment and term of office of railroad commissioners.**—There shall continue to be a board of railroad commissioners, consisting of three competent persons, one of whom shall be experienced in railroad business, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold office for the term of five years, and until his successor shall have been appointed and shall have qualified. A commissioner shall in like manner be appointed upon the expiration of the term of any commissioner; and when any vacancy shall occur in the office of any commissioner, a commissioner shall in like manner be appointed for the residue of the term. If the senate shall not be in session when the vacancy occurs, the governor shall appoint a commissioner to fill the vacancy, subject to the approval of the senate when convened.

§ 151. **Suspension from office.**—Any commissioner may be suspended from office by the governor upon written charges preferred. The governor shall report such suspension and the reasons therefor to the senate at the beginning of the next ensuing session, and if a majority of the senate shall approve the action of the governor, such commissioner shall be removed from office and his office become vacant.

§ 152. **Secretary and marshal of board.**—The board shall have a secretary and a marshal who shall be appointed by it and serve during its pleasure. The secretary shall keep a full and faithful record of the proceedings of the board, and be the custodian of its records, and file and preserve at its general office all books, maps, documents and papers intrusted to his care, and be responsible to the board for the same. Under the direction of the board he shall be its chief executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of its decisions, recommendations, orders and requests, prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe, and he

shall have power to administer oaths in all cases pertaining to the duties of his office. He shall have the power to designate from time to time one of the clerks appointed by the board to act as assistant secretary during his absence from the county of Albany, and the clerk so designated for the time designated shall within the county of Albany only, possess the powers conferred by this section upon the secretary of the board. (*Thus amended by chap. 534, Laws 1892.*)

§ 153. **Additional officers; their duties.**—The board may also appoint, to serve during its pleasure, the following officers or any of them: An accountant, who shall be thoroughly skilled in railroad accounting, and who shall, under the direction of the board, make examinations of the books and accounts of railroad and other corporations, and supervise the quarterly and annual reports made by the railroad corporations to the board, and collect and compile railroad statistics, and perform such other duties as the board may prescribe. An inspector, who shall be a civil engineer, skilled in railroad affairs, who shall make such inspections of railroads and other matters relating thereto, as directed by the board, and report to it. Such additional clerical force as may be necessary for the transaction of its business. The board may also employ engineers, accountants and other experts whose services they may deem to be of temporary importance in conducting any investigation authorized by law. (*Thus amended by chap. 534, Laws 1892.*)

§ 154. **Oath of office; eligibility of officers of board.**—Each commissioner, and every person appointed to office by the board, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be appointed to or hold the office of commissioner or be appointed by the board to, or hold any office, place or position under it who holds any official relation to any railroad corporation, or owns stock or bonds therein, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any such corporation.

§ 155. **Principal office and meetings of board.**—The principal office of the board shall be at the city of Albany, in rooms designated by the capitol commissioners, and it may have a branch office at the city of New York, and one at the city of Buffalo; and the board, or a quorum thereof, shall meet at least once a month during the year at the office in Albany. The board shall have an official seal, to be prepared by the secretary of state in accordance with law, and its offices shall be supplied with necessary postage, stationery, office furniture

and appliances, to be paid for as other expenses authorized by this article, and it shall have prepared for it by the state the necessary books, maps and statistics, incidentally necessary for the discharge of its duties.

§ 156. **Quorum of board.**—Two of the commissioners shall constitute a quorum for the transaction of any business, or the performance of any duty of the board and may hold meetings thereof at any time or place within the state. All examinations or investigations made by the board may be held and taken by and before any one of the commissioners or the secretary of the board, by the order of the board, and the proceedings and decisions of such single commissioner or secretary, shall be deemed to be the proceedings and decisions of the board, when approved and confirmed by it. (*Thus amended by chap 534, Laws 1892.*)

§ 157. **General powers and duties of board.**—The board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and accommodation of the public and their compliance with the provisions of their charters and of law. The commissioners or either of them in the performance of their official duties may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad corporation within the state, or doing business therein; and may examine the books and affairs of any such corporation and compel the production of books and papers or copies thereof, and the board may cause to be subpœnaed witnesses, and if a person duly subpœnaed fails to obey such subpœna without reasonable cause, or shall without such cause refuse to be examined, or to answer a legal or pertinent question, or to produce a book or paper, which he is directed by subpœna to bring, or to subscribe his deposition after it has been correctly reduced to writing, the board may take such proceedings as are authorized by the Code of Civil Procedure upon the like failure or refusal of a witness subpœnaed to attend the trial of a civil action before a court of record or a referee appointed by such court. The board shall also take testimony upon, and have a hearing for and against any proposed change of the law relating to any railroad, or of the general railroad law, if requested to do so by the legislature or by the committee on railroads of the senate or the assembly, or by the governor, and may take

such testimony and have such a hearing when requested to do so by any railroad corporation, or incorporated organization representing agricultural or commercial interests in the state, and shall report their conclusions in writing to the legislature, committee, governor, corporation or organization making such request; and shall recommend and draft such bills as will in its judgment protect the people's interest in and upon the railroads of this state.

§ 158. **Reports of railroad corporations.**—The board shall prescribe the form of the report required by the railroad law to be made by railroad corporations, and may from time to time make such changes and additions in such form, giving to the corporation six months' notice before the expirations of any fiscal year, of any changes or additions which would require any alteration in the method or form of keeping their accounts, and on or before September fifteenth in each year, shall furnish a blank form for such report. When the report of any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the board.

§ 159. **Investigation of accidents.**—The board shall investigate the cause of any accident on any railroad resulting in loss of life or injury to persons, which in their judgment shall require investigation and include the result thereof in their annual report to the legislature. Before making any such examination or investigation, or any investigation or examination under this article, reasonable notice shall be given to the corporation, person or persons conducting and managing such railroad of the time and place of commencing the same. The general superintendent or manager of every railroad shall inform the board of any such accident immediately after its occurrence. If the examination of the books and affairs of the corporation, or if witnesses in its employ, shall be necessary in the course of any examination or investigation into its affairs, the board, or a commissioner thereof, shall sit for such purpose in the city or town of this state where the principal business office of the corporation is situated if requested so to do by the corporation; but the board may require copies of books and papers, or abstracts thereof, to be sent to them to any part of this state.

§ 160. **Recommendations of board, where law has been violated.**—If, in the judgment of the board, it shall appear that any railroad corporation has violated any constitutional provision or law,

or neglects in any respect to comply with the terms of the law by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, or refuses to comply with the provisions of any law, or with any recommendation of the board, it shall give notice thereof in writing to the corporation, and if the violation, neglect or refusal is continued after such notice, the board may forthwith present the matter to the attorney-general, who shall take such proceedings thereon as may be necessary for the protection of the public interests.

§ 161. Recommendations of board, when repairs or other changes are necessary.—If, in the judgment of the board, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad in the state, or that any addition to the rolling stock, or any addition to or change of the station or station-houses, or that additional terminal facilities shall be afforded, or that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and fails to satisfy the board that no action is required to be taken by it, the board shall fix the time within which the same shall be made, which time it may extend. It shall be the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the board shall present the facts in the case to the attorney-general for his consideration and action, and shall also report them in its annual or in a special report to the legislature.

§ 162. Legal effect of recommendations and action of the board.—No examination, request or advice of the board, nor any investigation or report made by it, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation, or its legal liabilities for the consequence of its acts, or of the neglect or mismanagement of any of its agents or employees. The supreme court at special term shall have power in its discretion, in all cases of decisions and recommendations by the board

which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the general term and the court of appeals, and upon such appeal, the general term and the court of appeals may review and reverse upon the facts as well as the law. (*Thus amended by chap. 676, Laws 1892.*)

§ 168. Corporations must furnish necessary information.—Every railroad corporation shall, on request, furnish the board any necessary information required by them concerning the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and the condition, management and operation of its road, and shall, on request, furnish to the board copies of all contracts and agreements, leases or other engagements entered into by it with any person or corporation. The commissioners shall not give publicity to such information, contracts, agreements, leases or other engagements, if, in their judgment, the public interests do not require it, or the welfare and prosperity of railroad corporations of the state might be thereby injuriously affected.

§ 164. Attendance of witnesses and their fees.—All subpoenas shall be issued by the president of the board, or by any two members thereof, and may be served by any person of full age authorized by the board to serve the same. The fees of witnesses before the board shall be two dollars for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route in going to and returning from the place where the attendance of the witness is required, and the fees shall be audited and paid by the comptroller on the certificate of the secretary of the commission.

§ 165. Fees to be charged and collected by the board.—The board shall charge and collect the following fees: For copies of papers and records not required to be certified, or otherwise authenticated by the board, ten cents for each folio of one hundred words; for certified copies of official documents filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by a railroad corporation to the board, fifty cents; for each certified copy of the annual report of the board, one dollar and fifty cents; for certified copies of evidence and proceedings before the board, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the board.

in the ordinary course of distribution. All fees charged and collected by the board belong to the people of the state, and shall be paid quarterly, accompanied with a detailed statement thereof into the treasury of the state to the credit of the general fund.

§ 166. **Annual report of board.**—The board shall make an annual report on or before the second Monday in January in each year, which shall contain :

1. A record of their meetings and an abstract of their proceedings during the preceding year.

2. The result of any examination or investigation conducted by them.

3. Such statements, facts and explanations as will disclose the actual workings of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions as to the general railroad policy of the state, of the amendment of its laws, or the condition, affairs or conduct of any railroad corporation, as may seem to them appropriate.

4. Drafts of all bills submitted by them to the legislature and the reasons therefor.

5. Such tables and abstracts of all the reports of all the railroad corporations as they may deem expedient.

6. A statement in detail of the traveling expenses and disbursements of the commissioners, their clerks, marshal and experts.

Five hundred copies of the report with the reports of the railroad corporations of the state, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of the commissioners, and to be distributed by them in their discretion to railroad corporations and other persons interested therein.

§ 167. **Certified copies of papers filed to be evidence.**—Copies of all official documents filed or deposited according to law in the office of the board, certified by a member of the board or the secretary thereof to be true copies of the originals under the official seal of the board, shall be evidence in like manner as the originals.

§ 168. **Acts prohibited.**—No railroad commissioner shall, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such commissioners, or either of them, nor to

any clerk or employe of the commissioners or of the board; neither shall the commissioners or either of them, nor their secretary, clerks, agents, employes or experts, accept, receive or request any pass from any railroad in this state, for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation; and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the commissioner or commissioners, secretary, clerk, or clerks, agent or agents, employe or employes, expert or experts, requesting or accepting the same.

§ 169. Salaries and expenses of members and officers of the board.—The annual salary of each commissioner shall be eight thousand dollars; of the secretary, six thousand dollars; of the marshal, fifteen hundred dollars; of the accountant and of the inspector such sum as the board may fix, not exceeding three thousand dollars each; of the clerical force such sums respectively as the board may fix. In the discharge of their official duties, the commissioners, their officers, clerks and all experts and agents whose services are deemed temporarily of importance, shall be transported over the railroads in this state free of charge upon passes signed by the secretary of state and the commissioners shall have reimbursed to them the necessary traveling expenses and disbursements of themselves, their officers, clerks and experts, not exceeding in the aggregate five hundred dollars per month. All salaries and disbursements shall be audited and allowed by the comptroller, and paid monthly by the state treasurer upon the order of the comptroller out of the funds provided therefor. (*Thus amended by chap. 534, Laws 1892.*)

§ 176. Total annual expense to be borne by railroads.—The total annual expense of the board authorized by law, excepting only rent of offices and the cost of printing and binding the annual reports of the board as provided by law, shall not exceed fifty thousand dollars; and shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the comptroller who, on or before July first in each year, shall assess upon each of such corporations its proportion of such expenses, one-half in proportion to its net income for the fiscal year next preceding that in which the assessment is made, and one-half in proportion to the length of its main road and branches, except that each corporation whose line of road lies partly within and partly without the State, shall in respect of its net income be assessed on a part

bearing the same proportion to its whole net income that the line of its road within the State bears to the whole length of road, and in respect of its main road and branches shall be assessed only on that part which lies within the State. Such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. (*Thus amended by chap. 534, Laws 1892.*)

§ 171. **Application of this article.**—The provisions of this article shall apply to all railroads within the State, and the corporations, receivers, trustees, directors or others, owning or operating the same or any of them, and to all sleeping and drawing room car corporations, and to all other associations, partnerships or corporations engaged in transporting passengers or freight upon any such railroad as lessee or otherwise. (*Sections 180 to 183, both inclusive, were repealed by chap. 676, Laws 1892.*)

GENERAL ACTS RELATING TO RAILROADS

WHICH WERE IN

EFFECT PRIOR TO MAY 1st, 1891, NOT IN TERMS REPEALED BY ANY OF THE PRECEDING LAWS, OR NOT COVERED BY ANY OF THE PROVISIONS OF SAID SEVERAL ACTS.

Article VIII, section 1 of the Constitution of the State of New York.—Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation can not be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time.

CHAP. 276, LAWS OF 1834.

AN ACT to incorporate the Medina and Darien Railroad Company.

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§ 17. **Power of Canal Commissioners.**—The canal commissioners are hereby invested with a general and supervisory power over so much of any railroad as passes over any canal or feeder belonging to this state, or approaches within ten rods or such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this state, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this state, unless said company shall lay before the commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said canal commissioners, with such conditions, instructions and limitations as, in the judgment of said canal commissioners, the free and perfect use of any such canal or feeder may require.

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CHAP. 133, LAWS OF 1847.

AN ACT authorizing the incorporation of rural cemetery associations.

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§ 10. **No street, road, avenue or thoroughfare to be laid out through a cemetery.** — The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

SECTION 1. Lawful for commissioners of highways, having supervision thereof to give written consent for construction across road or highway. — Whenever any association or individual shall construct a railroad upon land purchased for that purpose, or a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

CHAP. 62, LAWS OF 1853.

AN ACT to regulate the construction of roads and streets across railroad tracks.

SECTION 1. Laying out streets or highways across railroad tracks. — It shall be lawful for the authorities of any city, village or town in this state, who are by law empowered to lay out

streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

§ 2. Railroad corporations to cause street laid out across their track to be taken at most convenient place for public travel.—It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose; and all the provisions of the act, passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

§ 3. Penalty for neglect or refusal.—If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty-dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work can not be performed within the time limited by this act.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.

SECTION 1. Corporation owning canal may construct railroad.—It shall be lawful for any corporation of this State owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

§ 2. Corporate powers.—Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled “An act to authorize the formation of railroad corporations and to regulate the same,” passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

§ 3. Not authorized to construct railroad in any other locality.—Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 189, LAWS OF 1891.

AN ACT to incorporate the Whirlpool Bridge Company.

* * * * *

§ 7. Power to take and hold real estate; corporation to have same powers as railroad corporations in certain matters.—The said corporation is hereby empowered to purchase, receive and hold such real estate on either side of the Niagara river, as may be necessary and convenient in accomplishing the objects for which this charter is granted, and may, by their surveyor and engineer, enter upon such sites and locations and take possession of the same. All such sites and locations as shall be entered upon, as aforesaid, shall, except donations, be purchased of the owner or owners at a price to be mutually agreed upon; in cases of disagreement as to the prices to be paid for such land, within the boundaries of the State of New York, then the said corporation shall possess all the powers and privileges contained in the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth and twenty-eighth sections of the act entitled “An act to authorize the formation of railroad corporations and to regulate the same,” passed April second, eighteen hundred and fifty, and as the same have been and stand amended and subject to the duties, liabilities and provisions of the said sections contained.

§ 8. This corporation to possess general powers, etc., prescribed in act authorizing consolidation of certain railroad companies.—The corporation shall possess the general powers and be subject to the restrictions and liabilities prescribed in the act entitled “An act authorizing the consolidation of certain railroad companies,” passed May twentieth, eighteen hundred and sixty-

nine, so far as the same are applicable thereto, for the purpose of consolidating with any corporation chartered for like purposes by the parliament of Canada; and shall further have the power to lease the said bridge, the approaches and connections and appurtenances thereto, to any chartered corporation for such time and on such time and terms as may be agreed upon.

CHAP. 555, LAWS OF 1890.

AN ACT to provide for the improvement and maintenance of the public roads in certain counties as county roads.

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§ 7. Construction of horse, electric or other railways.—

No horse railway or electric or other railway shall be laid, constructed or operated on said county roads, unless, in addition to the requirements of existing laws, the same shall be authorized by a two-third vote of the board of supervisors and unless the same shall be constructed with a flat or grooved rail, and in case of horse railways, paved between the tracks in the manner prescribed by the board of supervisors in the resolution authorizing the same, and the same constantly maintained in good order and condition by said railroad company, and the railroad or corporation constructing the same shall agree thereto, and it shall be the duty of the said board of supervisors to require from said railroad or corporation, or other person, a bond with sufficient sureties as a guarantee, and conditioned for the performance of their agreement, and the board of supervisors may, from time to time, require such bond to be renewed in case the sureties, or any of them, in its judgment, shall become insufficient.

CHAP. 253, LAWS OF 1891.

AN ACT concerning the Niagara Falls Power Company, and to amend chapter eighty-three of the laws of eighteen hundred and eighty-six, as amended by chapter one hundred and nine of the laws of eighteen hundred and eighty-nine.

* * * * *

§ 10. Right to enter upon lands under streets, highways, railroads, etc.— Said company may enter upon and use the ground or soil under any street, highway, road, railroad land or public ground, except Erie canal land, within said counties for the purposes aforesaid, and may, when necessary, change the location or surface grade of any street, highway or road; and such right shall be continuous for said purposes, including the relaying, repairing, altering or extending its

works; provided, however, that in cases where any open canal or other open work of said company, shall cross any street, highway, road, public ground or railroad land, said company shall construct, and at all times thereafter maintain suitable and proper bridges over its said work where such bridges are rendered necessary by the construction of its said works; and in cases where its pipes or other covered work shall be laid under the surface of any road, street, highway, public ground or railroad land the surface thereof shall be made and kept suitable for public travel, and as nearly as may be as it was before said work was done; and in cases of posts and elevated conductors, cables or wires upon and over such road, street, highway, public ground or railroad land, the same shall be so placed and elevated as not to interfere with the ordinary use thereof by the public or railroad company, or highway or railroad purposes.

CHAP. 267, LAWS OF 1891.

AN ACT to authorize change of gauge on railroads and to provide for an increase of floating and bonded indebtedness.

SECTION 1. Any railroad company incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and acts amendatory thereof and supplementary thereto, may change the gauge of its road on consent of the board of railroad commissioners and approval of the stockholders of said railroad company owning three-fourths in amount of the capital stock, said approval of said stockholders to be made at a special meeting of the stockholders of said company called for that purpose; and upon like consent of said board of railroad commissioners, and upon like approval of the stockholders of said railroad company owning three-fourths in amount of said capital stock of said company, the floating and bonded indebtedness of said railroad company may be increased to an amount necessary to make such change of gauge and to provide for the operating expenses of said railroad, notwithstanding restrictions or limitations contained in the original certificate of incorporation of said railroad company.

CHAP. 294, LAWS OF 1891.

AN ACT in relation to elevated railways in cities.

SECTION 1. When elevated road may abandon part of its route; proceedings in such case.—Any company operating an elevated railway or railways in any city of this state for the transpor-

may, by a vote of a majority of the stock, either in person or by proxy thereof to that effect, and filing in the office of the secretary of state a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

CHAP. 378, LAWS OF 1883.

AN ACT in relation to receivers of corporations.

SECTION 1. Application for appointment of receiver, where made.— Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district, and any order appointing a receiver, otherwise made, shall be void.

§ 2. Compensation.— Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first \$100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said \$100,000. But no receiver shall be allowed or shall receive, from such percentages or otherwise, for his said services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation shall be divided between such receivers. (*Thus amended, chap. 275, Laws of 1886.*)

§ 3. Order appointing receiver to designate place of deposit.— All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the attorney-general.

§ 4. Duties of receiver.— It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the supreme court,

held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of said six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the attorney-general, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowance until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by an order of the court duly entered; and any such order shall be the subject of review by the general term and the Court of Appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the attorney-general shall be given eight days' notice in writing, and the attorney-general shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 40, Laws of 1885.*)

§ 5. Intervenor to pay his own legal expenses; no allowance to be made for costs to attorney.—In case of the intervention of any policyholder or depositor, by permission of the court, such policy-holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy-holder or depositor.

§ 6. Receiver to close up affairs within one year.—The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the attorney-general, shall give additional time for that purpose.

§ 7. Attorney-General may apply to have receiver removed; appeal.—The attorney-general may, at any time he deems that the interests of the stockholders, creditors, policy-holders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the supreme court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional

order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

§ 8. Copies of all papers to be served on attorney-general. — A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purposes, shall, in all cases, be served on the attorney-general, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order unless the attorney-general shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the attorney-general, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the attorney-general.

§ 9. Where applications under this act to be made; venue changed. — All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corporation was located; and the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

§ 10. Preference on calendar. — All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

§ 11. Repeal. — All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property of bankrupt corporations to the receivers of such corporations, and for the transfer by the superintendent of the insurance department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such superintendent by such company for the security of policy holders.

SECTION 1. Where receivers have or shall be appointed for any corporation other than insurance companies on application by attorney-general, property to vest in receiver; proviso.—In all cases where receivers have been or shall be appointed for any corporation of this state other than an insurance company, on application by the attorney-general, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in, and held by such receiver, provided, however, that such transfer shall only be made when directed by an order of the supreme court, due notice of the application for such order having been made on the attorney-general, and the custodian of the funds, securities or property.

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CHAP. 376, LAWS OF 1885.

AN ACT to provide for the payment of wages to employes, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

SECTION 1. Wages of employes to be preferred.—Where a receiver of a corporation created or organized under the laws of this state and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employes, operatives and laborers thereof shall be preferred to every other debt or claim against any such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

CHAP. 310, LAWS OF 1886.

AN ACT to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

SECTION 1. Duty of attorney-general.—Whenever any corporation organized under the laws of this state shall be annulled and dissolved by an act of the legislature, it shall be the duty of the

attorney-general immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

§ 2. **Suit, where to be brought.**—Such suit shall be brought in the supreme court in the name of the people of the state, in any county which the attorney-general may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

§ 3. **Court to appoint receiver.**—It shall be the duty of the special term of the supreme court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the State in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

§ 4. **Receiver to make inventory.**—Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

§ 5. Notice to creditors; powers and duties of receiver; creditors to present claims.—The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice daily for fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court or such judge thereof will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged

to be bound by such instrument or paper and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, off-set or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

§ 6. When claim of creditor is debarred; right of creditor to appeal; sale of property; allowance to receiver; distribution of assets.—All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and a place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof,

shall allow to the receiver two per cent upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas and to, the attorney-general, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deduction above provided for in case of an appeal, pro rata, or in full if such residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

§ 7. Proceedings not to be stayed.—No issue raised by answer, or demurrer, or otherwise, to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court, or a judge thereof.

§ 8. Discharge of receiver.—The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so discharged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

§ 9. Subpoenas, by whom issued; receiver may administer oaths; false swearing, perjury.—It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpoenas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpoenas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpoenas shall be a contempt of court, and shall be punished in like manner as other contempts of court are now punishable. Willful false swearing by any

witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

§ 10. Leave to sue receiver, how and where obtainable.— All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the supreme court in the county in which such action was brought, and shall not be made to any other court, or to the supreme court in any other county, and shall not be granted except upon eight days' notice to the attorney-general of the time and place of making such application. In any action hereafter brought or now pending by the attorney-general, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the supreme court at general term may be reviewed upon appeal to the Court of Appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

§ 11. Repeal, etc.— This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

CHAP. 84, LAWS OF 1871.

AN ACT to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

SECTION 1. Railroad and other corporate bonds; how made non-negotiable.— It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this state, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

§ 2. Transfers; how made.— The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order

of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

CHAP. 595, LAWS OF 1873.

AN ACT relative to certain negotiable corporate bonds and obligations.

SECTION 1.—How owner may make bonds non-negotiable.—The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this state, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

§ 2. How transferred after such indorsement.—The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

§ 3. The provisions of this act apply to interest coupons.—The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this state.

§ 4. Repeal.—So much of chapter eighty-four of the Laws of one thousand eight hundred and seventy-one, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

CHAP. 779, LAWS OF 1868.

AN ACT in relation to mortgages executed by railroad companies.

SECTION 1. Chattel mortgages.—It shall not be necessary to file as a chattel mortgage, any mortgage which has been, or shall hereafter be, executed by any railroad company upon real and personal property, and which has been or shall be recorded as a mortgage of real estate in each county in or through which the railroad runs.

CHAP. 529, LAWS OF 1870.**AN ACT in relation to mechanics' liens.**

SECTION 1. Provisions of lien law extended to railroad bridges and trestle work.—The provisions of the law relating to mechanics' lien heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced prior to the passage of this act.

CHAP. 392, LAWS OF 1875.**AN ACT for the better security of railroad employes for labor performed.**

SECTION 1. Lien for labor upon rolling stock, etc.—Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, rolling stock, and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

§ 2. When notice to be filed; to be entered by county clerk on "lien docket;" fee.—Within thirty days after the performance and completion of such labor, such person shall file a notice in writing with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing said lien, and said notice when so filed, shall thereafter operate as an incumbrance upon said property.

§ 3. **Value of labor to be proved on trial.**— Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

§ 4. **Lien, how enforced.**— Any laborer, performing any work, or assignee thereof, may, after such labor is performed, and the services of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated, to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

§ 5. **Lien to continue one year.**— Every lien created under the provisions of this act shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against who it is obtained to the extent that other judgments are now made a lien thereon.

§ 6. **Priority of liens.**— The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

§ 7. **Liens, how discharged.**— All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or

2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

3. By an entry of the county clerk made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

§ 8. Personal liability of stockholders; notice; time for commencing action. — Each and all stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days service, or less than ninety days service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days service, or less than ninety days service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 383, LAWS OF 1883.

AN ACT entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock and provided for the record thereof."

SECTION 1. Conditional sale, lease or loan of equipment and rolling stock to be invalid as to judgment creditors and purchasers, without notice, unless evidenced in writing and recorded. — Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possessions and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the

vendee, lessee or bailee on full payment therefor as aforesaid, such contracts shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the State, or in the office of the register in counties where there is a register's office.

3. Name of vendor, etc., to be on locomotive or car, etc.— Each locomotive or car so sold, leased or loaned, shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

§ 2. Not to invalidate any contract heretofore made if recorded within ninety days.— This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

CHAP. 488, LAWS OF 1885.

AN ACT to amend chapter three hundred and fifteen of the laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

SECTION 1. Amending section 2, chapter 315, Laws of 1884.— Section two of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," is hereby amended so as to read as follows:

§ 2. Instruments, where to be filed.— The instruments mentioned in the preceding section shall be filed in the several towns and cities of this State, where the person to whom such property is so contracted to be sold, if a resident of this State, shall reside at the time of the execu-

tion thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this State other than the cities of New York and Brooklyn, and in the several towns of this State in which a county clerk's office is kept, in such office; and in each of the other towns in this State, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register; and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

CHAP. 225, LAWS OF 1888.

AN ACT further to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

SECTION 1. Section seven of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," as the same was amended by chapter four hundred and eighty-eight of the Laws of eighteen hundred and eighty-five, and by chapter four hundred and ninety-five of the Laws of eighteen hundred and eighty-six, is hereby further amended so as to read as follows:

§ 7. * * * This act shall not apply to railroad equipment or rolling-stock sold, leased or loaned, under a contract which has been or must be recorded pursuant to the provisions of chapter three hundred and eighty-three of the Laws of eighteen hundred and eighty-three, entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling-stock, and providing for the record thereof."

CHAP. 63, LAWS OF 1887.

AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employer and employes and to authorize the creation of a State Board of Mediation and Arbitration.

* * * * *

§ 13. Act applicable to all corporations.— Whenever the term “employer” or “employers” is used in this act, it shall be held to include “firm,” “joint-stock association,” “company” or “corporation,” as fully as if each of the last-named terms was expressed in each place.

CHAP. 381, LAWS OF 1889.

AN ACT to provide for the cash payment of wages by corporations.

SECTION 1. Wages payable only in cash.— Every manufacturing, mining or quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone corporation and every incorporated express company, and water company not municipal, shall pay to each and every employe engaged in its business the wages earned by such employe in cash; and it shall not be lawful for any of the above-named companies or corporations to pay their employes in their own scrip or that of others commonly known as store money orders.

§ 2. Penalty for violation of act.— Any corporation violating any of the provisions of this act shall be punished by a fine not exceeding fifty, and not less than ten dollars, on each complaint on which it is convicted, provided complaint for such violation is made within thirty days from the date thereof.

§ 3. Act when to go into operation.— This act shall take effect upon the first day of July, one thousand eight hundred and eighty-nine.

CHAP. 388, LAWS OF 1890.

AN ACT to provide for the weekly payment of wages by corporations.

SECTION 1. Weekly payment of wages required.— Every manufacturing, mining or quarrying, lumbering, mercantile, railroad, surface, street, electric and elevated railway (except steam surface railroads), steamboat, telegraph, telephone and municipal corporation, and every

incorporated express company and water company shall pay weekly each and every employe, engaged in its business, the wages earned by such employe, to within six days of the date of such payment, provided, however, that if at any time of payment any employe shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter upon demand.

§ 2. **Penalty for violation; penalties how recovered; assignment of wages when forbidden.**— Any corporation violating any of the provisions of this act shall be liable to a penalty not exceeding fifty dollars and not less than ten dollars for each violation, to be paid to the people of the state and which may be recovered in a civil action, provided an action for such violation is commenced within thirty days from the date thereof. The factory inspectors of this state, their assistants or deputies may bring an action in the name of the people of the state as plaintiff against any corporation which neglects to comply with the provisions of this act for a period of two weeks, after having been notified in writing by such inspectors, assistants or deputies, that such action will be brought. On the trial of such action, such corporation shall not be allowed to set up any defense for a failure to pay weekly any employe engaged in its business the wages earned by such employe to within six days of the date of such payment other than a valid assignment of such wages or a valid set-off against the same, or the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of payment of wages so earned by him, or a breach of contract by such employe, or a denial of the employment. No assignment of future wages, payable weekly, under the provisions of this act shall be valid if made to the corporation from whom such wages are to become due, or to any person on behalf of such corporation, or if made or procured to be made to any person for the purpose of relieving such corporation from the obligation to pay weekly under the provisions of this act. Nor shall any of said corporations require any agreement from any employe to accept wages at other periods than as provided in section one of this act as a condition of employment.

§ 3. **Proceedings to enforce act.**— The provisions of section* two hundred and sixty-three and three hundred and eighty-four of the Code of Civil Procedure, shall apply to and govern any proceedings brought to enforce the provisions of this act, and it is hereby made the duty of the attorney-general of this state to appear in behalf of such proceedings

*So in the original.

brought hereunder by the factory inspectors of this state, their assistants or deputies.

§ 4. This act shall take effect on the first day of July, eighteen hundred and ninety.

CHAP. 711, LAWS OF 1892.

AN ACT to provide for and limit the hours of service on railroads.

SECTION 1. No person, persons or corporation operating a line of railroad of thirty miles in length or over, in whole or in part, within this state, shall permit or require any conductor, engineer, fireman or any trainman who has worked in any capacity for twenty-four hours, to again go on duty or perform any kind of work until he has had at least eight hours' rest.

§ 2. Ten hours' labor performed within twelve consecutive hours shall constitute a day's labor in the operation of all steam surface and elevated railroads owned and operated within this state, provided that this provision shall not affect the mileage system now in operation, or that may hereafter be placed in operation, or trips of regular scheduled trains when completed within a less number of hours, and it is further provided that the provisions of this act shall not apply to extra hours of labor performed by any conductor, engineer, fireman or trainman in cases of unavoidable accident or delay caused by such accident.

§ 3. For every hour in excess of said ten hours' labor that any conductor, engineer, fireman or any trainman of any railroad company or corporation, owned or operated within this state, who works under the direction of a superior, or at the request of such company or corporation, shall be required or permitted to work, he shall receive comparative compensation for said extra service in addition to his daily compensation.

§ 4. Any railroad company or corporation, or any officer, agent or employe of any such company or corporation, violating or permitting the violation of any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of five hundred dollars for each offense.

CHAP. 488, LAWS 1892.

AN ACT for the protection, preservation and propagation of birds, fish and wild animals in the state of New York and the different counties thereof.

§ 46. **Transportation.**—Deer or venison killed in this state shall not be transported to any point within the state from or through any

of the counties thereof or possessed for that purpose, except as follows: One carcass or a part thereof may be transported from the county where killed, when accompanied by the owner. The possession of deer or venison by common carriers, unaccompanied by the owner, is a violation of this section. This section does not apply to the head and feet or skin of deer severed from the body.

§ 76. Woodcock and grouse, when not to be transported.—Woodcock, ruffed grouse, commonly known as partridge, or any member of the grouse family, or quail killed in this state, shall not be transported to any point within this state, from any of the counties thereof, or possessed for that purpose, except that such birds may be transported from the county where killed, when accompanied by the owner thereof. Possession of the birds named by a common carrier, unaccompanied by the owner, is a violation of this section, unless it be proved by such common carrier that the birds were killed out of the state.

§ 109. Certain fish not to be transported.—Trout of any kind, salmon trout or land-locked salmon, caught in any of the inland waters of this state shall not be transported to any point within the state from any of the counties thereof, or possessed for that purpose, except when accompanied by the owner. Possession thereof by a common carrier, unaccompanied by the owner, is a violation of this section.

For penalties, see §§ 51, 82 and 120.

CHAP. 283, LAWS OF 1885.

AN ACT to establish a forest commission, and to define its powers and duties and for the preservation of forests.

* * * * *

§ 8. Forest lands not to be leased or taken.—The lands now or hereafter constituting the forest preserve shall be forever kept as wild forest lands, and shall not be sold, nor shall they be leased or taken by any person or corporation, public or private, except that whenever any of the lands now constituting the forest preserve, or which may hereafter become a part thereof, owned by the State within any county specified in section seven of the act hereby amended, shall consist of separate small parcels or tracts wholly detached from the main portions of the forest preserve and bounded on every side by lands not owned by the state, then it shall be lawful, and the comptroller shall have power to sell and convey such separate tracts or parcels, or the timber

thereon, to such person or persons, corporation or association as shall have offered the highest price therefor; but no such tracts or parcels of land, or the timber thereon, shall be sold by the comptroller except upon the recommendation of the forest commission or a majority thereof, together with the advice of the attorney-general in behalf of the state. Such separate tracts or parcels of land may be exchanged by the comptroller for lands that lie adjoining the main tracts of the forest preserve upon the recommendation of the forest commission or a majority thereof, together with the advice of the attorney-general on behalf of the state; but the values of said lands so exchanged must be first appraised by three disinterested appraisers sworn to faithfully and fairly appraise the value of said lands, and the difference, if any, between the values of such parcels so proposed to be exchanged shall be paid by the party so exchanging with the state into the state treasury, but the state shall not pay the amount of any such difference. Two of said appraisers shall be nominated and appointed by the county judge of the county in which said lands proposed to be exchanged are situate, or in case such lands are situate in two counties, then the county judge of each county shall nominate and appoint each one appraiser. The two appraisers so appointed shall select a third appraiser, and they shall report to the comptroller the result of said appraisal before such lands shall be exchanged as aforesaid. The said appraisers so appointed shall receive the same compensation for their services as is provided for appraisers of decedent's estates, to be paid by the party so proposing to exchange lands with the state. It shall be the duty of the comptroller annually to report to the legislature all sales or exchanges of lands made under the provisions of this act, together with all bids and the amounts received therefor, and in said report shall be included the reports of appraisers of lands exchanged in accordance with the foregoing provisions. The proceeds of all lands so sold, or the receipts from all exchanges so made, shall be invested by the comptroller, with the approval of the forest commission, in the purchase of forest land adjoining great blocks of the forest preserve now owned by the state. (*Thus amended, Laws of 1887, chap. 475.*)

§ 25. Railroad companies to burn all inflammable material.—Every railroad company whose road passes through waste or forest lands, or liable to be overrun by fires within this state, shall, twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

§ 26. Locomotives to be provided with arrangement for preventing escape of fire from engine.—All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approved and sufficient arrangements for preventing the escape of fire from their furnaces or ash-pan, and netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly done.

§ 27. Fire not to be deposited on track in the vicinity of woodlands; trainmen to report fences on fire; extinguishment.—No railroad company shall permit its employes to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger, from fire, it shall be their duty to report the same at their next stopping place, and the person in charge of such station shall take prompt measure for extinguishing such fires.

§ 28. Companies to provide men to extinguish fires.—In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest their progress.

§ 29. Any railroad company violating the provisions or requirements of this act shall be liable to a fine of \$100 for each offense.

CHAP. 134, LAWS OF 1878.

AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of said act as is applicable to railways.)

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To order all or any animals coming into the State to be detained at any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposition of their hides and carcasses, and of all objects which might convey infection or contagion, provided that no animal shall be destroyed unless first

examined by a medical or veterinary practitioner in the employ of the governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As amended by chap. 286, Laws of 1868.*)

CHAP. 329, LAWS OF 1886.

AN ACT to prevent the spread of contagious and infectious diseases.

SECTION 1. In what cases hermetically sealed casket is requisite.— Whenever the body of any diseased person is to be transported over the railroads of this State, or upon any passenger steamboat plying upon the rivers of this State, the board of health to which application is made for a transit permit for the transportation of such body shall, if the physician's certificate, or the permit accompanying such body, state the cause of death to have been a contagious or infectious disease, require that such body be inclosed in an hermetically sealed casket of metal or other indestructible material.

CHAP. 300, LAWS OF 1837.

AN ACT relative to unclaimed trunks and baggage.

SECTION 1. Description of same to be entered in a book.— The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this state, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

§ 2. Description of property to be made and published in state paper.— In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of

the state paper, whose duty it shall be on the first Mondays of July, October, January and April, in each year, to publish the same in the state paper once a week for three weeks successively.

§ 3. If not claimed for sixty days after said publication, to be opened and examined and an inventory made; when to be sold at public auction, upon what notice; disposition of proceeds. — In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examinations, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

§ 4. Expense; to be a lien on property.—The person making the entry of unclaimed property as above specified, shall be entitled to twelve and a half cents for each trunk, box, bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

§ 5. Penalty.—In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollar for each and every trunk, box or bundle of baggage so neglected as

above specified, to the benefit of any person who shall sue for the same in his own name, in an action of debt in any court having cognizance thereof.

CHAP. 364, LAWS OF 1882.

AN ACT to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburgh and Lake Champlain railroad at Rouse's Point.

SECTION 1. Freight to be exchanged in same cars in which same is billed for transportation.— All freight billed or consigned from points in this State, or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad, and Ogdensburgh and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

§ 2. Cars offered by one company to another to be taken in the usual manner.— All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

§ 3. No additional charge to be made.— No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

§ 4. Penalty for violation of this act.— Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of \$500.

CHAP. 401, LAWS OF 1887.

AN ACT in relation to milk cans.

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§ 11. Rights of railroad superintendents in relation thereto.— The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the

branches and connections thereof, and steamboat lines operating their lines, or any portion thereof in the state of New York or elsewhere, shall have power to collect, gather and take into possession from any person or persons within the state of New York, or wherever found in said state, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

§ 12. What shall constitute evidence of appointment of agent.— The certificate of any superintendent of any railroad companies or steamboat lines mentioned in this act, or other person or persons authorized thereto, in this act, appointing an agent to collect such can or cans duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

§ 13. Powers of such agent.— Such agent shall have full power to collect, gather and take into his possession from any persons, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer, who shall assist him to take possession of such can or cans.

CHAP. 401, LAWS 1892.

AN ACT to revise and consolidate the laws regulating the sale of intoxicating liquors.

§ 30. Licenses by comptroller to common carriers.— The comptroller is hereby authorized to grant licenses to persons, associations or corporations engaged in the transportation of passengers by cars, steamboats or vessels, within the limits of this state, permitting them to sell strong or spirituous liquors, wines, ale or beer, to such passengers while in transit, without license by any board of excise. Every license so granted by the comptroller shall expire at the end of one year from the date of its issuance. It shall be granted upon such terms, conditions and restrictions as such comptroller may deem proper, and upon the payment of such sum as he shall fix, not less than thirty dollars for each and every car, boat or vessel in which such sales are to be made. The moneys received by him for licenses shall be paid into the treasury of the state. Any person or corporation who shall sell, or permit to be sold, or offer or expose for sale any strong or spirituous liquors, wines, ale or beer, upon any car, steamboat or vessel, without having first obtained a license therefor as herein provided, shall forfeit the sum of fifty dollars for each offense, to be sued for and recovered in an action in the name of the people, brought by the attorney-general; and the person so offending shall be guilty of a misdemeanor.

§ 39. **Employment of persons addicted to intoxication by common carriers.**—Any person, association or corporation engaged in the business of conveying passengers and property for hire who shall employ in the conduct of such business any person who habitually indulges in the intemperate use of intoxicating drinks, after notice that such person has been intoxicated while in the active service of such person, association or corporation as an engineer, fireman, conductor, switchtender, commander, pilot, mate, foreman or in other like capacity, so that by his neglect of duty the safety and security of the life, person or property so conveyed might be imperilled, shall be guilty of a misdemeanor.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the state of New York.

SECTION 1. **No procession or parade to interfere with free passage of cars upon street railways.**—No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which is so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

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§ 4. **Penalty.**—Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or both at the discretion of the court.

CHAP. 292, LAWS OF 1882.

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§ 2. **Oils that ignite below 300 degrees Fahrenheit not to be burned in cars.**—No oil or burning fluid, whether composed wholly or in part of coal oil and petroleum or their products, or other substance or material, which will ignite at a temperature below three hundred degrees by the Fahrenheit thermometer, shall be burned in lamp, vessel, or other stationary fixture of any kind, or carried as freight, in any passenger or baggage car or passenger boat moved by steam power in this state, or in any stage or street car drawn by horses. Exceptions

as regards the transportation of coal oil, petroleum and its products, are hereby made when the same is securely packed in barrels or metallic packages, and permission is hereby granted for its carriage in passenger boats moved by steam power when there are no other public means of transportation. Any violation of this act shall be deemed a misdemeanor and subject the offending party or parties to a penalty not exceeding three hundred dollars, or imprisonment not exceeding six months, at the discretion of the court.

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§ 5. It shall be the duty of all district attorneys of the counties in this state to represent and prosecute in behalf of the people, within their respective counties, all cases of offenses arising under the provisions of this act.

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CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

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§ 4. Penalty for entering building without consent.—Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglar's tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the state prison, shall be deemed guilty of felony, and on conviction shall be punished by imprisonment in the state prison at hard labor for not more than three years.

CHAP. 529, LAWS OF 1887.

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the state, in cities of 100,000 inhabitants and over.

SECTION 1. Hours of labor on surface street and elevated railroads.—Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this state, whose main line of travel, or whose routes lie principally within the corporate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

§ 2. **Violation of act a misdemeanor.**— It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employes more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

§ 3. **How applicable.**— This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or repeal.

§ 4. **Repeal.**— All acts inconsistent with this act are hereby repealed.

(This act supersedes chap. 151, Laws of 1886.) As to street roads, see, also, chap. 415, Laws of 1880. As to elevated roads, see, also, chap. 338, Laws of 1881.

CHAP. 38, LAWS OF 1889.

AN ACT to regulate the payment of fares upon railroads.

SECTION 1. **Extra fare may be exacted when no ticket is purchased; rebate ticket to be issued therefor.**— It shall be lawful for any company owning or operating a steam railroad in this state to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this state; provided, however, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided, further, that this act shall not apply to any passenger taking passage from a station or stopping place when tickets can not be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

CHAP. 360, LAWS OF 1891.

AN ACT to confer upon the board of railroad commissioners of the state of New York authority to compel the lighting and ventilation of all tunnels within this state which are used by steam railroads.

SECTION 1. The board of railroad commissioners of the state of New York are hereby authorized, empowered and given full and complete authority to require and compel all tunnels used or to be used

by railroads operated by steam in this state to be properly ventilated in such manner and by such means and mechanical appliances as said board of railroad commissioners, or a majority of the same, may direct.

§ 2. The board of railroad commissioners of this state are also hereby authorized, empowered and given full and complete authority to require and compel all tunnels used, or to be used by railroads operated by steam in this state, to be properly lighted by electricity or otherwise, or by such means or in such manner as said board of railroad commissioners, or a majority of the same, may direct.

§ 3. Whenever said board of railroad commissioners of this state, or a majority thereof, shall cause to be personally served upon any railroad corporation controlling any tunnel, or part of a tunnel, in this state for the purpose of operating a railroad or moving, hauling or propelling cars therein by steam by delivering a copy personally to the president, general manager or any director of said corporation of a notice or order, signed by a majority of said board of railroad commissioners, stating and specifying the structures to be erected, the manner, means, mechanical appliance and apparatus to be used in lighting or ventilating any tunnel or tunnels used by said corporation for the purpose of moving, hauling or propelling cars by steam therein as aforesaid, said corporation shall, within thirty days from and after the service of said notice or order as aforesaid, cause said tunnel or tunnels so used by it as aforesaid to be lighted or ventilated, or both, in the manner and by the means and use of the mechanical apparatus and appliances specified and pointed out in said notice or order.

§ 4. After the expiration of thirty days from the service of said order or notice specified in the preceding section, as therein directed, if said corporation shall not have fully complied with the provisions and requirements of said notice or order as aforesaid and as therein directed and required, said board of railroad commissioners, or a majority of said board, may apply to the supreme court of this state for a writ of mandamus to compel said corporation or corporations so neglecting or refusing to obey and comply with the provisions of said order or notice to comply with and obey the provisions and requirements of said notice or order, and said court shall have full power and authority to hear and determine said matter, and, after giving the corporation or corporations proceeded against an opportunity to be heard in its or their defense, to compel said corporation or corporations so proceeded against to obey said order or notice, and forthwith comply with and carry out the provisions and requirements therein contained.

§ 5. Every corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and may be indicted therefor, and may be compelled to appear and plead to an indictment therefor in the person of its president, secretary, treasurer or any director thereof, and a bench warrant may issue out of any competent court to compel such attendance and pleading, and upon conviction thereof, punished by a fine of \$1,000, and an additional fine of \$500 a day for each and every day or part of a day after thirty days from the due service of said notice or order that said corporation shall refuse or neglect to obey and carry out the requirements and provisions of the same, and duly sentenced to pay the same.

§ 6. It shall be the duty of the district attorney prosecuting any corporation for a violation of any of the provisions of this act, that shall be convicted thereof, and sentenced to pay a fine therefor, to cause a judgment-roll to be made up, consisting of the indictment orders and sentence of the court and a formal judgment, to be prepared by him, which judgment shall be duly signed by the clerk of the county in which said trial took place; said judgment-roll shall be filed by said county clerk and said judgment shall be duly recorded in the book of judgments in said county and duly entered and docketed by said county clerk in said county the same as if said judgment had been obtained in a civil action, and said judgment so duly entered and docketed shall become and be a lien upon all the real estate of said corporation against which the same is obtained, and the collection thereof may be enforced by execution to be issued and signed by the district attorney of the county where the trial of said indictment took place, in the same manner and to the same extent as executions are collected in civil action.

§ 7. In cities in this state having a population of one million inhabitants or over, where tunnels are or may hereafter be operated or controlled by any railroad corporation such portions of any mechanical or other devices or appliances as may be required under the provisions of this act to be constructed on or above the surface of any streets, avenues or other places under which such tunnels may be built, shall be subject as to form, material and construction, the approval of the local authorities in such cities, except that in the city of New York such approval shall be by a majority vote of the mayor, the comptroller, the commissioner of public works and the president of the department of public parks of said city.

§ 8. This act shall take effect immediately.

As to the general subject of taxation of real estate, etc., see chapter 13, part of 1, Revised Statutes. Also, chap. 411, Laws of 1885.

CHAP, 686, LAWS OF 1892.

AN ACT in relation to counties, constituting chapter eighteen of the general laws.

§ 53. **Statement of railroad, telegraph, telephone and electric-light taxes.**—The clerk shall, within five days after the making out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

CHAP. 506, LAWS OF 1870.

AN ACT to facilitate the payment of taxes by railroad companies.

(Section one repealed by section 53, chap. 686, Laws of 1892.)

§ 2. **Railroad companies may pay tax to county treasurer; fees of treasurer.**—Any railroad company heretofore organized under the laws of this state, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

§ 3. **County treasurer to notify collector of non-payment of tax; duty of collector.**—In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

§ 4. County treasurer to credit taxes; collector to be credited with fees; surplus to be paid to supervisor.— The several amounts of tax so received by the county treasurer of and from railroad companies shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

§ 5. Railroad company may pay tax collector; proviso.— Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to repeal or in any manner interfere with the provisions of chapter 907 of the Session Laws of 1869.

CHAP. 361, LAWS OF 1881.

AN ACT to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the state upon certain corporations, joint-stock companies and associations."

SECTION 1. Certain officers of company to make annual report to comptroller on or before fifteenth of November; where dividend not declared, stock to be estimated and declared; certificate to be sent comptroller; appeals.— Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 3 of this act, to make report, in writing, to the comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint-stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the

year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of said company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash—not less, however, than the average price which said stock sold for during said year, and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same, provided that if the comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the state thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the secretary of state, attorney-general and state treasurer, which board, on such appeal, shall affirm or correct the account so settled by the comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the comptroller, be deposited with the state treasurer.

§ 2. Comptroller to add ten per cent in case of failure to make report; proviso.— If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirmation, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the comptroller of the state to add ten per centum to the tax of said corporation, company or association for each and every year for which suc.

report or certificate of appraisalment and oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth section of this act for one year, the comptroller shall report the fact to the governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the attorney-general to take proceedings in the name of the people of this state, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

§ 3. **Annual tax, how computed.**—Every corporation, joint-stock company, or association whatever, now or hereafter incorporated, organized, or formed under, by, or pursuant to law in this state or in any other state or country, and doing business in this state, except only savings banks and institutions for savings, life insurance companies, banks, foreign insurance companies, manufacturing or mining corporations or companies wholly engaged in carrying on manufacture, or mining ores within this state, and agricultural and horticultural societies, associations or corporations, which exceptions, however, shall not include gas companies, trust companies, electric or steam heating, lighting and power companies, shall be liable to and shall pay a tax, as a tax upon its franchise or business, into the state treasury annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stocks, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock, made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock, as, for instance, common and preferred stock, and upon one of said stocks as dividend or dividends, amounting to six or more than six per centum upon the par value thereof, has been made

or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amounting to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto, tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation, made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. (*Thus amended, Laws of 1890, chap. 522.*)

§ 4. **When payable.**—It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the state within fifteen days after the first day of January in each and every year.

§ 5. **Relates only to insurance companies.**

§ 6. **Tax on railroad, steamboat and other companies; rate of tax.**—In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incorporated or organized by or under any law of this state, or now or hereafter incorporated or organized by or under the laws of any other state or country, and doing business in this state, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe-line or transportation route or line or elevated railway or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other state, and doing business in this state, and every express company or association, palace car or sleeper car company or association, incorporated or unincorporated, doing business in this state, shall pay to the state treasurer for the use of this state, as a tax upon its corporate franchise or business in this state, tax at the rate of five-tenths of one per centum upon the gross earning in this state of said corporation or company or association, for toll

transportation, telegraph, telephone or express business transacted in this state.

§ 7. When payable; report of gross earnings; report for six months ending June 30, 1881; ten per cent to be added in case of neglect.—The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company or association shall neglect or refuse for a period of thirty days after any tax imposed by sections 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the state as other taxes are recoverable by law from such corporation, joint-stock company or association.

§ 8. Exempt from taxation for state purposes; proviso.—The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for state purposes, except upon their real estate and as herein provided; but they shall in all other respects be liable to assessment and taxation as heretofore.

§ 9. Tax, application of.—The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the state, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be

sued for in the name of the people of the state, and recovered in any court of competent jurisdiction, in an action to be brought by the attorney-general at the instance of the comptroller.

§ 10. **Saving section.**—All obligations, liabilities and taxes heretofore incurred or imposed under said act, chapter 542 of Laws of 1880, are saved and shall be enforced as if the said act had not been hereby amended.

§ 11. **Amount of capital stock employed in this state to be basis of tax; if dissatisfied, comptroller may fix amount.**—The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this state. In making to the comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint-stock company or association provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be to state specifically the amount of capital stock employed within this state, of such corporation, joint-stock company or association. Whenever the comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association whose capital is only partially employed within this state, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this state, and to settle an account for the taxes and penalties due the state thereon. (*Added by chap. 501, Laws of 1885.*)

§ 12. **In case of failure to make report, comptroller may examine books and records, and make report.**—Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the comptroller, the comptroller is authorized to examine or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle and account for said tax and

penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

§ 13. Comptroller may issue subpoenas and examine witnesses; penalty for failure to obey subpoena.—Whenever the comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpoena in proper form, commanding such person or officer to appear before him or some person designated as commissioner by him by an appointment in writing, filed in the office of such comptroller, at a time and at the place where the principal office of such corporation is situated within this state in such subpoena specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this state. Such subpoena shall be served upon the person named by showing him the original subpoena and delivering to and leaving with him at the same time a copy thereof. The comptroller or the commissioner so designated by him as aforesaid may administer oaths to such persons as he may desire to examine, so brought before him by subpoena or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company or association as aforesaid. Whenever any person duly subpoenaed to appear and give evidence as aforesaid, or to produce any books and papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpoena, or shall refuse to testify before said comptroller or the commissioner so designated by him, or to answer any proper or pertinent question, he shall be deemed in contempt, and thereupon any justice of the supreme court of the judicial district within which the principal office of such corporation within this state is situated shall, upon the motion of the comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of

attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring him before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpoenaed to appear and give evidence as is prescribed in title three, chapter seventeen of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap. 501, Laws of 1885.*)

§ 14. Comptroller to settle and adjust all accounts against corporations, for taxes and penalties since May 12, 1882; proviso as to payments made before August 1, 1885.—The comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the state by such corporation, joint-stock company or association. Provided, however, that such corporation, joint-stock company or association shall not be entitled to the benefits of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of taxes so settled, before the first day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the attorney-general, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this state, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the 1st day of August, 1885, pay to the state treasurer for the use of the state, in full discharge of the same, such sum of money as shall be fixed by the comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the state. Provided, that this section shall not apply to the case of any tax for which suit

may have heretofore been brought by the attorney-general, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap. 501, Laws of 1885.*)

§ 15. **Interest.**— All accounts hereafter settled by the comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for, until full payment thereof shall be made. (*Added by chap. 501, Laws of 1885.*)

§ 16. **Comptroller to give notice before making settlement of taxes.**— It shall be the duty of the comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice hereof, in writing, to such person, partnership, corporation, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

§ 17. **Provisions in relation to review of comptroller ; determination by writ of certiorari.**— No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the state by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor be made within thirty days after service upon such corporation, joint-stock company or association by the comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefor is to be made, including notice of motion, shall have been served upon the comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, deposit with the state treasurer the full amount of taxes, penalties and charges so settled and adjusted by the comptroller, and file with him an undertaking in such amount and with sufficient sureties as shall be approved by one of the justices of the supreme court of this state, to the effect that if said writ be vacated and the determination of the comptroller sustained, the applicant for the writ will make payment of all costs and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap. 501, Laws of 1885.*)

§ 18. Comptroller may issue warrant for collection after thirty days.—After the expiration of thirty days from the service by the comptroller of notice of settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the state treasurer of the amount of the said settlement, together with the undertaking, as provided for by this act, shall not then have been made, it shall be lawful for the comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county in this state, commanding him to levy upon and sell the goods and chattels, lands and tenements of the said corporations, joint-stock company or association found within said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing said warrant, and to return the said warrant to the comptroller, and pay to the state treasurer the money which shall be collected by virtue thereof, by a certain time therein specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap. 501, Law of 1885.*)

§ 19. Readjustment of accounts in cases of illegal payment of taxes.—The comptroller may at any time revise and readjust any account theretofore settled against any person, association, corporation, or joint-stock company by himself or any preceding comptroller for taxes arising under this act or the act to which it is an amendment, whenever it shall be made to appear by evidence submitted to him that the same has been illegally paid or so made as to include taxes which could not have been lawfully demanded and shall resettle the same according to law and the facts and charge or credit, as the case may require, the difference, if any, resulting from such revision and resettlement upon the current accounts of such person, association, corporation or joint-stock company. (*Added by chap. 463, Laws of 1889.*)

§ 20. Comptroller's action may be reviewed by certiorari; appeals from determination.— The action of the comptroller, upon any application made to him by any person or corporation for a revision and resettlement of accounts as provided in this act, may be reviewed, both upon the law and the facts upon certiorari by the supreme court at the instance either of the party making such application or of the attorney-general in the name and in behalf of the people of this state, and for that purpose the comptroller shall return to such certiorari the accounts and all the evidence submitted to him on such application, and, if the original or resettled accounts shall be found erroneous or illegal by this court, either in point of law or of fact, the said accounts shall be there corrected and restated by the said supreme court and from any such determination of the supreme court an appeal may be taken by either party to the Court of Appeals as in other cases. (*Added by chap. 463, Laws of 1889.*)

(The provisions of §§ 19 and 20 not to apply to any taxes heretofore paid by any person or corporation in pursuance of a judgment or order of a court or by virtue of any stipulation.)

CHAP. 143, LAWS OF 1886.

AN ACT to tax stock corporations for the privilege of organization.

SECTION 1. Every corporation, joint-stock company or association incorporated by or under any general or special law of this state, having capital stock divided into shares, shall pay to the state treasurer, for the use of the state a tax of one-eighth of one per centum upon the amount of the capital stock which said corporation, joint-stock company or association is authorized to have, and a like tax upon any subsequent increase thereof. The said tax shall be due and payable upon the incorporation of said corporation, joint-stock company or association, or upon the increase of the capital thereof; and no such corporation, joint-stock company or association shall have or exercise any corporate powers until the said tax shall have been paid. And the secretary of state and any county clerk shall not file any certificate of incorporation or articles of association or certify or give any certificate to any such corporation, joint-stock company or association, until he is satisfied, that the said tax has been paid to the state treasurer; and no such company, incorporated by any special act of the legislature shall go into operation or exercise any corporate powers or privileges until said tax has been paid as aforesaid. But this act shall not apply to literary, scientific, medical and religious corporations, or corporations organized

under the banking laws of this state or under chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, entitled "An act for incorporation of building, mutual loan and accumulating fund associations," and the acts amendatory thereof. In case of the consolidation of two corporations into a new corporation said new corporation shall be required to pay the tax hereinbefore provided for only upon the amount of its capital stock in excess of the aggregate amount of capital stock of said two corporations. (*Thus amended by chap. 668, Laws of 1892.*)

§ 2. **Applicable to general fund.**—The taxes imposed by this act and the revenue derived therefrom, shall be applicable to the general fund and for the payment of those claims and demands which shall constitute a lawful charge upon that fund.

CHAP. 266, LAWS OF 1886.

AN ACT to provide for the more certain recovery of state taxes from delinquent associations, corporations and joint-stock companies.

SECTION 1. **Recovery of delinquent taxes; provisions as to prosecution of suits for such taxes.**—For the better enforcement of chapter five hundred and forty-two of the Laws of eighteen hundred and eighty and the acts amendatory thereof, it shall be lawful for any person having knowledge of the evasion of taxation under said acts by any association, corporation or joint-stock company liable to taxation thereunder, to report such fact to the comptroller, together with such information as may be in his possession as may lead to the recovery of such taxes from said association, corporation or joint-stock company, and whenever in the opinion of the attorney-general or comptroller the interests of the state require it, either of them is hereby authorized to employ such persons so reporting such evasion to assist in the collection and preparation of evidence and in the prosecution and trial of suits for such taxes; and so much of the sum collected from such delinquent association, corporation or joint-stock company, by reason of such report or such service, as shall be agreed upon by such person and the attorney-general or comptroller as a compensation therefor, shall be paid to such person, provided that the sum so paid shall not exceed ten per centum of the amount so collected; and provided further, that nothing whatever shall be paid to such person for such purpose unless there shall be a recovery of taxes from such delinquent association, corporation or joint-stock company by reason of such report or such services.

CHAP. 675, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

SECTION 1. Duty of school collector to deliver to county treasurer certain statement; duty of county treasurer in the premises.—It shall be the duty of the school collector in each school district in this state, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment-roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

§ 2. Time in which tax may be paid with one per cent fees.—Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this state, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

§ 3. If tax not paid within thirty days, duty of collector to collect; limitation.—In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress

and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

§ 4. Tax to be placed to credit of school district, paid to collector on demand, fees to go to collector on demand.—The several amounts of tax received by any county treasurer in this state under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

§ 5. Tax may be paid to collector direct.—Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 694, LAWS OF 1867.

AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

SECTION 1. Duty of town assessors.—It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by chap. 414, Laws of 1884*)

§ 2. Apportionment.—Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies,

on which all taxes against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap. 414, Laws of 1884.*)

§ 3. When assessors neglect to make apportionment.—In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by chap. 340, Laws of 1885.*)

§ 4. Town clerk to furnish certified statement when requested.—The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to each district, and the name of the company to which the same relates.

§ 5. When alteration is made in school district.—In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company, the officer making such alteration shall, at the same time determine what change in the valuation of the said property in such districts would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap. 340, Laws of 1885.*)

BONDING OF TOWNS, AND RAILROAD AID DEBTS.

Several statutes of this state relative to the bonding of towns, etc., are omitted, because by article VIII, section 11 of the Constitution of the State of New York, adopted November 3, 1874, and November 4, 1884, they are practically abrogated as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882. In connection with this subject, see, however, chap. 685, Laws of 1892, known as the "general municipal law," portions of which are herein given.

Article VIII, sec. 11, Constitution of the State of New York.

No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owners of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be

allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 685, LAWS OF 1892.

AN ACT in relation to municipal corporations, constituting chapter seventeen of the general laws.

§ 7. **Funding of bonded debts.** — The bonded indebtedness of a municipal corporation, including interest due or unpaid, may be paid up or retired by the issue of new substituted bonds for like amounts by the board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one nor more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per cent.

§ 16. **Exchange or sale of railroad stock and bonds.**—The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they cannot make such exchange they may sell such stock or bonds at not less than par; but they may, on the application and with the approval, of the governing board of the municipal corporation, owning such stocks and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable, for the municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad or substituted therefor; except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation, entitled to the same, may direct.

§ 17. **Annual report of commissioners and payment of bonds.**—The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall b

forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town-meeting, village or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled.

§ 18. **Accounts and loans by commissioners.**—Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in the bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof.

§ 19. **Reissue of lost or destroyed bonds.**—When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office.

THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF NEW YORK.

SECTIONS APPLICABLE TO RAILROAD COMPANIES.

SECTION 1. Court of special sessions, jurisdiction of.—Section fifty-six of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

* * * * *

9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as a conductor of a car, or train of cars, on any such railroad, or a misdemeanor committed by any person on a railroad car or train. (*Thus amended, Laws of 1890, chap. 521.*)

* * * * *

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people. (*Thus amended, Laws 1886, chap. 28.*)

§ 137. Of crime committed in the state on board any railway train, etc.—When a crime is committed in this state, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this state, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

§ 335. Plea of guilty, how put in.—A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

§ 675. **Summons upon an information or presentment against a corporation, by whom issued, and when returnable.**— Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons. (8 R. S. 1046, §§ 56, 57, 58.)

§ 676. **Form of the summons.**— The summons must be in substantially the following form:

“County of *Albany*, [or as the case may be.]

“In the name of the people of the State of New York:

“To the [naming the corporation.]

“You are hereby summoned to appear before me, at [naming the place], on [specifying the day and hour], to answer a charge made against you, upon *the information of A. B.*, for [designating the offense, generally.]

“Dated at the *city*, [or ‘town,’] of the day of , 18 .

“G. H., *Justice of the Peace.*”

[Or as the case may be.]

§ 677. **When and how served.**— The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

§ 678. **Examination of the charge.**— At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

§ 679. **Certificate of the magistrate, and return thereof with depositions.**— After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

§ 680. **Grand jury may proceed as in the case of a natural person.**— If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

§ 681. When an indictment is filed against any corporation, such corporation must be arraigned thereon, and the court acquires jurisdiction over the corporation, in the manner following:

1. The clerk of the court wherein such indictment is found, or to which it is sent or removed, or the district attorney of the county, must issue a summons signed by him with his name of office, requiring such corporation to appear and answer the indictment by a demurrer or written plea to be verified in like manner as a pleading in a civil action, at a time and place to be specified in such summons, such time to be not less than five days after the issue thereof. The summons may be substantially in the following form:

Court of oyer and terminer of the county of _____, (state the
proper county or court as the case may be)

The People of the State of New York

vs.

The A. B. Company.

You are hereby summoned to appear in this court and, by demurrer or plea in writing duly verified, answer an indictment filed against you by the grand jury of this county, on the _____ day of _____, charging you with the crime of (designating the offense generally), at a term of the court of oyer and terminer (or as the case may be) of this county, at (naming the place) on (stating the day and hour) and in case of your failure to so appear and answer, judgment will be pronounced against you.

Dated at the city (or town) of _____, the _____ day of _____ 18 ____.

C. D.

District Attorney.

(or by order of the court, E. F. Clerk, as the case may be.)

2. The summons must be served at least four days before the appearance fixed therein, in the same manner as is provided for the service of a summons upon a corporation in a civil action; and if the corporation does not appear in the manner and at the time and place specified in the summons, judgment must be pronounced against it.

3. Nothing contained in this section shall be construed as preventing the appearance of a corporation by counsel to answer an indictment, without the issuance or service of the summons as above provided. And when an indictment shall have been filed against a corporation it may voluntarily appear and answer the same by counsel duly authorized to so appear for it; in which case the court acquires full jurisdiction over the corporation in the same manner as if the summons had been issued and served.

§ 2. Section six hundred and eighty-two of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 682. When a fine is imposed upon a corporation upon conviction, it may be collected in the same manner as a judgment in a civil action, and if an execution issued upon such judgment be returned unsatisfied, the district attorney of the county may thereupon bring an action in the name of the people of the state of New York, to procure a judgment sequestrating the property of the corporation, as provided by the Code of Civil Procedure. (*Thus amended by chap. 219, Laws 1892.*)

THE PENAL CODE OF THE STATE OF NEW YORK.

PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

§ 13. Whenever in this code the punishment for crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court authorized to pass sentence within such limits as may be prescribed by this code. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable with imprisonment, as for a felony, such corporation is punishable by a fine of not more than five thousand dollars. (*Thus amended by chap. 218, Laws 1892.*)

§ 41f. Refusal to permit employes to attend election.— A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor. (*Thus amended by chap. 693, Laws 1892.*)

§ 41p. Giving considerations for franchise.— Any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to come to the polls or remain away from the polls at such election or on account of such voter having voted or refrained from voting, or having voted or refrained from voting for any particular person, for having come to the polls or remained away from the polls at such election; or

2. Gives, offers or promises any office, place or employment, or promises to procure, or endeavors to procure any office, place or employment to or for any voter or to or for any other person in order to induce such voter to vote or refrain from voting at such election for any particular person or persons; or

3. Makes any gifts, loan, promise, offer, procurement or agreement, as aforesaid, to, for or with any person in order to induce such person to procure or endeavor to procure the election of any person, or the vote of any voter at any election; or

4. Procures or engages, or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person or the vote of any voter at such election; or

5. Advances, pays, or causes to be paid, any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays, or causes to be paid any money or other valuable thing to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election.

Is guilty of an infamous crime, punishment* by imprisonment for not less than three months, nor more than one year, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed. (*Thus amended by chap. 693, Laws 1892.*)

§ 41q. **Receiving consideration for franchise.**—Any person who, directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan, or other valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for any particular person or persons at any election; or

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such election, or on account of himself or any other person having voted or refrained from voting for any particular person at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or on account of having induced any other person to vote or refrain from voting for any particular person or persons at such election,

* So in the original.

Is guilty of an infamous crime, punishable by imprisonment for not less than three months nor more than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of such clerks. (*Thus amended by chap. 693, Laws 1892.*)

§ 41r. Testimony upon prosecution. — A person offending against any provision of section forty-one-q or of section forty-one-r of this code is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing or proceeding, or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution. (*Thus amended by chap 693, Laws 1892.*)

§ 119. No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policemen, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him. Any person or persons who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property,

or dispossesses any one of any lands or tenements without a regular process therefor, or any person who knowingly violates any other provision of this section, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the Code of Criminal Procedure; or under chapter three hundred and forty-six of the Laws of eighteen hundred and sixty-three, as amended by chapter two hundred and fifty-nine of the Laws of eighteen hundred and sixty-six, and chapter one hundred and ninety-three of the Laws of eighteen hundred and seventy-five; or under chapter two hundred and twenty-three of the Laws of eighteen hundred and eighty; or under chapter five hundred and twenty-seven of the Laws of eighteen hundred and seventy-three; or under chapter two hundred and five of the Laws of eighteen hundred and seventy-five; but all places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this act. (*Thus amended by chap. 272, Laws 1892.*)

§ 171a. **Compelling employes to agree not to join any labor organization a misdemeanor.**—Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employe or employes, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employe, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment. (*Chap. 688, Laws of 1887.*)

§ 199. **Liability of persons in charge of steam engines.**—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to

be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

(3 R. S. 984, § 21; *id.* 978, § 31; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law, § 362; see, also, §§ 362, 424, *post.*)

5. Use of force or violence not declared unlawful in certain cases, etc.—(Subdivision 5, section 223.)—When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

* * * * *

§ 362. Mismanagement of steam boilers.—An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory, or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

(3 R. S. 978, § 31; see § 199, *ante.*)

§ 381. Innkeepers and carriers refusing to receive guests and passengers.—A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passengers, is guilty of a misdemeanor.

(See § 383, *post.*)

§ 383. No exclusion because of race, color, etc.—No citizen of this state can, by reason of race, color, or previous condition of servitude, be excluded from the equal enjoyment of any accommodation, faculty or privilege furnished by inn-keepers or common carriers, or by owners, managers or lessees of theaters or other places of amusement, by teachers and officers of common schools and public institutions of learning, or by cemetery associations. The violation of this section is a misdemeanor, punishable by a fine of not less than fifty dollars, nor more than \$500.

(1 R. S. 377, §§ 22-24; see § 381, *ante.*)

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or cause to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carriers of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosive, or substance so offered or attempted to be offered to the company or carrier to which it shall be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a state prison for not less than one nor more than five years or be subject to both such fine and imprisonment. (*As amended by chap. 689, Laws of 1887.*)

§ 416. Unlawful offers to railroad commissioners or their employees. — Any officers, agent or attorney of a railroad corporation who offers a place, appointment, position or any other consideration to a railroad commissioner, or to a secretary, clerk, agent, employe or expert employed by the board of railroad commissioners, is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

§ 417. Misconduct of railroad commissioners and of their employees. — Any railroad commissioner, or any secretary, clerk, agent, expert or other person employed by the board of railroad commissioners, who,

1. Directly or indirectly solicits or requests from or recommends to any railroad corporation, or to any officer, attorney or agent thereof, the appointment of any person to any place or position; or,

2. Accepts, receives or requests, either for himself or for any other person, any pass, gift or gratuity from any railroad corporation; or,

3. Secretly reveals to any railroad corporation, or to any officer, member or employe thereof, any information gained by him from any other railroad corporation; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

§ 418. Persons unable to read not to act or be employed as engineers.— Any person unable to read the time-tables of a railroad and ordinary handwriting, who act as an engineer or runs a locomotive or train on any railroad in this state; or any person who in his own behalf, or in behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive, is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

§ 419. Misconduct of officials or employes on elevated railroads.— Any conductor, brakeman, or other agent or employe of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employe of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 420. Intoxication or other misconduct of railroad or steamboat employes.— 1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switchtender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employe of any railroad corporation, who willfully violates or omits his duty as such officer, agent or employe, by which human life or safety is endangered, the punishment of which is not otherwise prescribed; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 421. Failure to ring bell, etc.— A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the

bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals, until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, or any officer or employe of a corporation who shall willfully obstruct, or cause to be obstructed, any farm or highway crossing with any locomotive or car for a longer period than five consecutive minutes, is guilty of a misdemeanor. (*Thus amended by chap. 358, Laws of 1891.*)

§ 422. Placing passenger car in front of merchandise or freight car.—A person, being an officer or employe of a railway company, who knowingly places, directs, or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor. (*Thus amended, Laws of 1889, chap. 267.*)

§ 423. Platforms and heating apparatus of passenger cars.—A railroad corporation, or any officer or director thereof having charge of its railroad, or any person managing a railroad in this state, or any person or corporation running passenger cars upon a railroad into or through this state, who:

1. Fails to have the platforms or ends of the passenger cars run upon such railroad constructed in such manner as will prevent passengers falling between the cars while in motion; or,

2. Except temporarily, in case of accident or emergency, heats any passenger car, while in motion, on any such railroad more than fifty miles in length, except a narrow gauge railroad which runs only mixed trains, between October fifteenth and May first, by any stove or furnace inside of or suspended from such car, except stoves of a pattern and kind approved by the board of railroad commissioners for cooking purposes in dining room cars, and except within the extended time allowed by the railroad commissioners in pursuance of law for introducing other heating apparatus; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

§ 424. Guard posts; automatic couplers.—All corporations and persons other than employes, operating any steam railroad in this state,

1. Failing to cause guard posts to be placed in the prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,

2. Failing after November first, eighteen hundred and ninety-two, to equip all of their own engines and freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad, any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident, or other emergency, with automatic self-couplers, and except within the extended time allowed by the board of railroad commissioners, in pursuance of law, for equipping such car with such couplers; is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense. (*Thus amended by chap. 692, Laws of 1892.*)

§ 425. Advising or inducing employes not to wear uniform a misdemeanor.— A person who,

1. Advises or induces any one, being an officer, agent or employe of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employe, or to refuse to wear such uniform, or any part thereof ; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn ; or,

3. Wears the uniform designated by a railway company without authority ;

Is guilty of a misdemeanor.

(2 R. S. 534, § 40 ; 2 R. S. 560, § 143 ; Laws of 1867, chap. 483, § 1.)

§ 426. Riding on freight or wood trains ; getting on car or train while in motion ; obstructing, etc., horse or street railroad cars ; punishment.— Riding on freight trains,

1. A person who rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine ; or,

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as a passenger) or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse or street railway ;

Is guilty of a misdemeanor. (*As amended by chap. 458, Laws of 1890.*)

(Laws of 1871, chap. 261 ; Laws of 1879, chap. 474 ; Laws of 1880, chap. 370.)

§ 487. Arson in second degree.— A person who,

* * * * *

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time.

* * * * *

§ 488. **Arson in third degree.**—A person who willfully burns, or sets on fire, either,

1. A vessel, car, or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree.

§ 498. **Burglary in third degree.**—A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or,

2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

(3 R. S. 941, §§ 18, 19.)

§ 504. **"Building," defined.**—The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

§ 505. **Unlawfully entering building.**—A person who, under circumstances or in a manner not amounting to burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

§ 514. **Other cases of forgery in third degree.**—A person who, either,

1. Being an officer or in the employment of a corporation, association, partnership or individuals falsifies, or unlawfully and corruptly alters, erases, obliterates or destroys any accounts, books of accounts, records, or other writing, belonging to or appertaining to the business of the corporation, association or partnership or individuals; or,

2. Who, with intent to injure or defraud, shall falsely make, alter, forge or counterfeit, or shall cause, aid, abet, assist or otherwise connive at, or be a party to the making, altering, forging or counterfeiting of any letter, telegram or other written communication, paper, or instrument by which making, altering, forging or counterfeiting, any

other person shall be in any manner injured in his good name, standing, position or general reputation; or,

3. Who shall alter, or who shall cause, aid, abet, or otherwise connive at, or be a party to the uttering of any letter, telegram, report or other written communication, paper or instrument purporting to have been written or signed by another person, or any paper purporting to be a copy of any such paper or writing where no original existed, which said letter, telegram, report or other written communication, paper or instrument, or paper purporting to be a copy thereof, as aforesaid, the person uttering the same shall know to be false, forged or counterfeited, and by the uttering of which the sentiments, opinions, conduct, character, prospects, interests or rights of such other person shall be misrepresented or otherwise injuriously affected; or,

4. With intent to defraud, shall forge, counterfeit or falsely alter and wrongfully utter any ticket, contract or other paper, or writing entitling, or purporting to entitle, the person whose name appears therein, or the holder or bearer thereof, to entrance upon the grounds or premises of any membership corporation, or being thereupon, to remain upon such grounds or premises; or with like intent, shall use any such ticket, contract or other paper or writing, to effect an entrance or as evidence of his right to remain upon such grounds or premises: or, with like intent, shall sell, exchange or deliver, or keep or offer for sale, exchange or delivery, or receive upon any purchase, exchange or delivery, any such ticket, contract or other paper or writing, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree. (*Thus amended by chap. 692, Laws 1892.*)

§ 516. Forging passage tickets.— A person who, with intent to defraud, forges, counterfeits or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

(3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.)

§ 518. Officer of corporation selling, etc., forged or fraudulent scrip, etc.— An officer, agent or other person employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign

government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3,000.

(3 R. S. 946, §§ 49, 50; § 591, *post.*)

§ 519. **Falsely indicating person as corporate officer.**—The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

(3 R. S. 946, § 48; 2 R. S. (Edm.) 695, § 47; Laws of 1885, chap. 155.)

§ 520. **Terms "forge" and "forging."**—The expression "forge," "forged" and "forging," as used in this chapter, includes false making, counterfeiting and the alteration, erasure or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

(3 R. S. 946, § 44.)

§ 590. **Frauds in the organization of corporations.**—A person who:

1. Without authority subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint-stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association; or,

2. Signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation, existing or proposed; or,

3. Signs to any such subscription or agreement in the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement, that the terms of such subscription or agreement are not to be complied with or enforced; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 591. An officer, agent or other person in the service of any joint-stock company or corporation formed or existing under the laws of this state, or of the United States, or of any state or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed with intent to sell, pledges or issues, or causes to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares, is punishable by imprisonment for a term not exceeding seven years, or by a fine not exceeding three thousand dollars, or by both. (*Thus amended by chap. 662, Laws 1892.*)

§ 592. An officer, agent or clerk of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison not exceeding ten years. (*Thus amended by chap. 662, Laws 1892.*)

§ 594. Misconduct of directors of stock corporations.— A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus, profits, directly or indirectly, to the purchase of shares of its own stock; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporations; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation;

Is guilty of a misdemeanor.

(2 R. S. 297, § 1; Laws of 1869, chap. 742, § 7.)

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowing receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent, or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a state prison not exceeding ten years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (*Thus amended by chap. 662, Laws of 1892.*)

§ 603. Officer of corporation publishing false reports of its condition.—A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this code, specially made punishable, is guilty of a misdemeanor.

(Laws of 1874, chap. 440, §§ 1, 2; §§ 607 and 608 repealed by chapter 377, Laws of 1884.)

§ 609. Directors of corporation presumed to have knowledge of its affairs.—A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

(2 R. S., 299, § 14.)

§ 610. Misconduct of officers and directors of stock corporations.—An officer or director of a stock corporation who:

1. Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or

2. Sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share; is guilty of a misdemeanor, punishable by imprisonment for not less than six months, or by a fine not exceeding five thousand dollars, or by both. (*Thus amended by chap. 692, Laws 1892.*)

§ 611. Misconduct of officers and employes of corporations.—A director, officer, agent or employe of any corporation or joint-stock association who:

1. Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; or,

2. Concurs in omitting to make any material entry thereof; or,

3. Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

4. Having the custody or control of its books, willfully refuses or neglects to allow the same to be inspected and extracts to be taken therefrom by any person, entitled by law to inspect the same or to take extracts therefrom; or,

5. If a notice of an application for an injunction affecting the property or business of such joint-stock association or corporation is served upon him, omits to disclose the fact of such service and the time and place of such application to the other directors, officers and managers thereof; or,

6. Refuses or neglects to make any report or statement lawfully required by a public officer; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 612. Misconduct of officers and agents of pipe-line corporations.— Any officer, agent or manager of a pipe-line corporation, who:

1. Neglects or refuses to transport any product delivered for transportation, or to accept and allow a delivery thereof in the order of application, according to the general rules of the corporation, as provided by law; or,

2. Charges, accepts or agrees to accept for such receipt, transportation and delivery, a sum different from the amount fixed by such regulations; or,

3. Allows or pays, or agrees to allow or pay, or suffers to be allowed or paid or repaid, any draw-back, rebate or allowance, so that any person shall, by any device, have or procure any transportation of products over such pipe-line at a less rate or charge than is fixed in such regulations, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both. (*Thus amended by chap. 692, Laws 1892.*)

§ 613. Misconduct of corporate elections.— Any person who:

1. Votes or issues a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bond, if the person in whose behalf such vote is given shall not then have the title to the stock represented by such certificate or to such bond, and shall not have it in his possession and control, notwithstanding such stock or bond shall then stand on the books of such corporation in the name of the person in whose behalf such vote is given; or,

2. Being entitled to vote at such meeting, sells his vote or issues a proxy to vote to any person for any sum of money or thing of value; or,

3. Acts as an inspector of election at any such meeting and violates an oath taken by him, in pursuance of law as such inspector, or violates the provisions of an oath required by law to be taken by him as such

inspector, or is guilty of any dishonest or corrupt conduct as such inspector, is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 614. **Presumption of knowledge of corporate condition and business and of assent thereto by directors; definitions.**— It is no defense to a prosecution for a violation of the provisions of this chapter, that the corporation is a foreign corporation, if it carries on business or keeps an office therefor in this state. The term "director" as used in this chapter includes any of the persons having, by law, the direction or management of the affairs of a corporation, by whatever name described. A director of a corporation or joint-stock association is deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter. If present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, he must be deemed to have concurred therein, unless he at the time causes or in writing requires his dissent therefrom to be entered on the minutes of the directors. If absent from such meeting, he must be deemed to have concurred in any such violation, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the corporation for six months thereafter without causing or in writing requiring his dissent from such violation to be entered on such record of minutes. (*Thus amended by chap. 692, Laws 1892.*)

(§ 615 repealed; Laws, 1882.)

§ 616. **Sale by authorized agents restricted.**— No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in

the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

(Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

§ 617. Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.— No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose or under the pretense, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

(Laws of 1860, chap. 103, § 8; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws 1876, chap. 201.)

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a state prison not exceeding two years, or imprisonment in a county jail not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

§ 619. Conspiring to sell passage tickets in violation of law.— All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who by means of any such conspiracy, obtain or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a State prison not exceeding five years.

(Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1870, chap. 103, § 5; Laws of 1870, chap. 428.)

§ 620. Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.— Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

(Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 428, § 6; see § 171.)

§ 621. Offices kept for unlawful sale of passage tickets, declared disorderly houses.— All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chap-

ter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter are punishable by imprisonment in a county jail for a period not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

§ 623. Station masters, conductors, etc., allowed to sell tickets.—The provisions of this chapter do not prevent the station master or other ticket agent upon any railway from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

§ 626. Emigrants; sales and exchanges of passenger tickets.—A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

(1 R. S. 1067, §§ 78, 79, 81; Laws of 1853, chap. 218, §§ 7, 8, 9; Laws of 1855, chap. 474, §§ 1, 3, 4.)

§ 627. "Company" defined.—The term "company," as used in this chapter, includes all corporations, whether created under the laws of this state or of the United States, or those of any other state or nation. (Laws of 1860, chap. 108, § 18.)

§ 628. **By pipe-line corporations.**—A pipe-line corporation, or a person being the officer, agent, manager or representative thereof, who:

1. Accepts, makes or issues any receipt, certificate or order of any kind for any commodity, unless the commodity represented is actually at the time in the possession of the corporation; or,

2. Delivers to any person any petroleum or other commodity received for transportation by such corporation without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same; or,

3. Having parted with the possession of any commodity and having received therefor an order, voucher receipt or certificate shall reissue the same, or shall not cause it to be canceled by the word "canceled" stamped or printed legibly across the face thereof, and to be filed and recorded by such corporation, as provided by law;

Is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

§ 629. **Issuing fictitious bills of lading, receipts and vouchers.**—A person who,

1. Being the master, owner, or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher; or,

2. Carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness; is guilty of a misdemeanor, punishable by imprisonment not exceeding one year; or by a fine not exceeding one thousand dollars, or by both. (*Thus amended by chap. 692, Laws of 1892.*)

§ 630. **Erroneous bills of lading or receipts issued in good faith excepted.**—No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box,

case, cask or other vessel or package mentioned in the bill of lading, receipt or other voucher did not correspond with the description given in each instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

§ 631. Duplicate receipt must be marked "duplicate."—A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

§ 632. Selling, hypothecating or pledging property received for transportation or storage. — A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

(2 R. S. 229, § 4; Laws of 1858, chap. 826; Laws of 1859, chap. 353; Laws of 1866, chap. 440.)

§ 634. Property demanded by process of law. — The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process.

(2 R. S. 229, § 8.)

§ 635. Injuries to railroad tracks, et cetera.— A person who,

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof attached, appertaining to or connected with any railway, whether operated by steam, horses, or other motive power; or,

2. Places any obstruction upon the track of any such railway; or,

3. Willfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employees; or,

4. Willfully discharges a loaded firearm, or projects or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or,

5. Willfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached, appertaining to or connected with any railway operated by electricity, or willfully interferes with or interrupts any motive power used in running such road, or willfully places any obstruction upon the track of such railroad, or willfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway; is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars, or both. (*Thus amended by chap. 692, Laws 1892.*)

§ 638. Altering, etc., signal or light for railway engine or train.—A person who, with intent to bring a vessel, railway engine or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

§ 645. Endangering life by maliciously placing explosive near building, car, etc.—A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

(See §§ 201, 389, 636.)

§ 649. A messenger appointed by authority of law to receive and carry a report, certificate or certified copy of any statement relating to the result of any election, who willfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law; and a person who takes away from such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who willfully does any injury or other act in this section specified, is punishable by imprisonment in a state prison not exceeding five years. (*Thus amended by chap. 662, Laws of 1892.*)

§ 654. A person who unlawfully and willfully destroys or injures any real or personal property of another or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this state, or without like authority or permission, puts upon or runs any hand car, or other car, on any railroad track in this state, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this state, or takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case, by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment prescribed therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof. (*Thus amended by chap. 186, Laws of 1892.*)

§ 659. Carrying animals in a cruel manner, a misdemeanor.—

A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

(3 R. S., 974, § 38; Laws of 1880, chap. 209; Laws of 1867, chap. 375, § 5; § 663, *post.*)

§ 663. Transporting animals for more than twenty-four consecutive hours a misdemeanor.—A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee or other person in charge of any such animals refuses or neglects upon demand to pay for the care or

feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereupon for such expense.

(3 R. S. 974, § 38; Laws of 1866, chap. 560, § 1.)

§ 669. Definitions.—1. The word “animal,” as used in this title, does not include the human race, but includes every other living creature;

2. The word “torture” or “cruelty” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted;

3. The words “impure and unwholesome milk” include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on a distillery waste, usually called “swill,” or upon any substance in a state of putrefaction or fermentation.

(3 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1862, chap. 467, § 4.)

§ 675. Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor. A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered. (*Thus amended, chap. 327, Laws of 1891.*)

RAPID TRANSIT ACT.

CHAP. 4, LAWS OF 1891.

AN ACT to provide for rapid transit railways in cities of over one million inhabitants.

SECTION 1. Commissioners of rapid transit; appointments; board constituted; vacancies.—In cities having over one million of inhabitants, according to the last preceding national or state census, where rapid transit commissioners shall have been appointed since the first day of December, eighteen hundred and ninety, under the provisions of chapter six hundred and six of the laws of eighteen hundred and seventy-five, and the amendments thereto, by the mayor of any such city, said commissioners shall become commissioners of rapid transit under the provisions of this act. If no such commissioners have been appointed since the first day of December, eighteen hundred and ninety, and the date of the passage of this act in any city in this state containing a population of over one million inhabitants, according to the last preceding national or state census, then the mayor of such city may at any time after the passage of this act appoint five persons who shall be residents of such city, who shall be commissioners of rapid transit under the provisions of this act. The commissioners thus appointed are hereby constituted a board of rapid transit railroad commissioners, in and for the city in which they are appointed. They shall have and exercise the specific authority and powers hereinafter conferred, and also such other and necessary powers as may be requisite to the efficient performance of the duties imposed upon the said board by this act. If a vacancy shall at any time occur in any such board of rapid transit railroad commissioners, such vacancy shall be filled by the mayor of the city in which said board exists, by the appointment of a citizen of said city, who shall belong to the same political party as did the commissioner whom such appointee succeeds.

§ 2. Oath of commissioners.—Within twenty days after the passage of this act, in the case of commissioners who become such by its terms, and within twenty days after their appointment in the case of commissioners appointed under its provisions, each of the said commissioners shall take and subscribe an

oath faithfully to perform the duties of his office, which oath shall be filed in the office of the clerk of the county within which said board is appointed.

§ 3. First meeting of board; by-laws and rules; quorum; record of proceedings.— Within thirty days after the passage of this act, in the case of commissioners who become such by its terms, and within twenty days after their appointment, in the case of commissioners appointed under its provisions, the said commissioners shall meet and organize as a board. The board when so organized, may frame and adopt by-laws not inconsistent with this act, and establish suitable rules and regulations for the proper exercise of the powers and duties hereby conferred and imposed, and may from time to time amend the same. Four members of the board shall constitute a quorum for the transaction of business, but a less number may adjourn meetings. The said board shall adopt a seal and keep a record of its proceedings, which shall be a public record and be open to inspection at all reasonable times.

§ 4. Board to determine necessity of railways and to fix routes; general plan of construction; location of routes; proviso as to consents; parks and certain streets excepted; tunnels under parks and crossing streets; elevated roads.— The said board upon its own motion may proceed, from time to time, to consider and determine whether it is for the interest of the public and of the city in which it is appointed, that a rapid transit railway or railways for the conveyance and transportation of persons and property should be established therein, and upon the request in writing of the local authorities of any such city at any time, the said board shall proceed forthwith to consider and determine the same questions, and in each case the said board shall conduct such an inquest and investigation as may be deemed necessary in the premises. If, after such consideration and inquest, the said board shall determine that a rapid transit railway or railways, in addition to any already existing, are necessary for the interest of the public and such city, it shall proceed to determine and establish the route or routes thereof and the general plan of construction. Such general plan shall show the general mode of operation and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue or other public place is to be encroached upon and the property abutting thereon affected, and the concurrent votes of at least

four members of the board shall be necessary for the purpose of determining and establishing such route or routes and plan of construction. The said board, from time to time, may locate the route or routes of such railway or railways over, under, upon, through and across any streets, avenues and lands within such city, including blocks between streets or avenues or, partly over, under, upon, through and across any streets, avenues and lands within such city and partly through blocks between streets or avenues; provided that the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners can not be obtained, that the determination of three commissioners appointed by the general term of the supreme court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners; except that no public park nor any lands or places, lawfully set apart for, or occupied by, any public building of any city or county, or of the state of New York, or of the United States, nor those portions of Grand, Classon, Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and northerly line of Atlantic avenue, nor that portion of Classon avenue in said city lying between the northerly line of Lexington avenue and the southerly line of Park avenue, nor that portion of Washington avenue in said city lying between Park and Atlantic avenues, nor DeBevoise place, Irving place and Leffert's place, Lee avenue, Nostrand avenue, Waverly avenue, Vanderbilt avenue and Clinton avenue in said city of Brooklyn, nor that portion of the city of Buffalo lying between Michigan and Main streets, nor any part of Fifth avenue in the city of New York, nor that portion of any street or avenue which is now actually occupied by any elevated railroad structure, shall be occupied by any corporation to be organized under the provisions of this act for the purpose of constructing a railway in or upon any of such public parks, lands or places, or upon or along either of the said excepted streets or avenues. It shall be lawful for said commissioners to locate the route of a railway or railways, by tunnel under any such public parks, lands or places and to locate the route of any railway to be built, under this act, across any of the streets and avenues now occupied by an elevated railroad structure in the city of New York or across any of the streets or avenues excepted in this act at any point at which, in its discretion,

the board of rapid transit railroad commissioners may deem necessary in the location of any route or routes. Nothing in this act shall authorize the construction of an elevated railway on Broadway south of Thirty-third street, nor on Madison avenue in the city of New York. It shall not be lawful to grant, use or occupy, for the purposes of an elevated railroad, except for the purpose of crossing the same, any portion of the following named streets and places in the city of New York, that is to say: Second avenue below Twenty-third street; Nassau street; Printing House square, so called, south of Frankfort street; Park row, south of Tryon row; Broad street and Wall street.

§ 5. Transmission of plans, etc.; approval and consent of council; consent of local authorities; consents of property owners; value of property, how determined; proceedings if consent not obtained; notice of application for commissioners; appointment thereof, etc.; determination and report.—After any determination by said board of any such route or routes and of any general plan of construction of said railway or railways, the said board shall transmit to the common council of said city a copy of said plans and conclusions as adopted. It shall be the duty of such common council upon receiving such copy of plans and conclusions to appoint a day not less than one week nor more than ten days after the receipt thereof for the consideration of such plans and conclusions, and the said common council shall, on the day so fixed, proceed with the consideration thereof and may continue and adjourn such consideration, from time to time, until a final vote shall be taken thereon as hereinafter provided. Within four weeks after the copy of such plans and conclusions adopted by the board of rapid transit railroad commissioners shall have first been received by said common council, a final vote shall be taken thereon, by ayes and nays, in the form of a vote upon a resolution to approve such plans and conclusions, and to consent to the construction of a railway or railways in accordance therewith. Upon the adoption of such resolution* a majority vote of all the members of the common council and the approval of the mayor, and in the case of the refusal or failure of the mayor to approve such resolution, then by a two-thirds vote of all the members of the common council, the said plans and conclusions shall be deemed to have been finally consented to and adopted, and such consent shall be deemed to be the consent of the local authorities of such city; provided, that where in any such city the exclusive control of any street,

* So in the original.

road, highway or avenue which is to be used or occupied by any railway or railways constructed under the provisions of this act, is by law vested in any local authority other than the common council of such city, the approval of the aforesaid plans and conclusions and the consent to the construction of a railway thereunder shall be given by such local authority in place of and if required in addition to such approval and consent by said common council and with like effect. Upon obtaining the approval and consent of the local authorities, as above provided, the said board of rapid transit railroad commissioners shall take the necessary steps to obtain, if possible, the said consents of the property owners along the line of said route or routes. For purposes of this act the value of the property bounded on that portion of any street or highway in, upon, over or under which it is proposed to construct or operate such railway or railways, or any part thereof, shall be ascertained and determined from the assessment-roll of the city in which the said property is situated, confirmed or completed last before the local authorities shall have given their consent as above provided. If such consents of property owners can not be obtained, the said board may, in its own name, make application to the general term of the supreme court in the judicial district in which such railway is to be constructed for the appointment of three commissioners to determine and report after due hearing whether such railway ought to be constructed and operated. Two weeks' notice of such application shall be given by daily publication thereof in six daily newspapers published in the city where such proposed railway is to be constructed, if here be so many newspapers published in said city, and if not then in all the daily newspapers published in said city. The newspapers in which said publication shall be made, shall be designated by the general term of the supreme court to which such application is to be made on the application of the commissioners without notice. The said general term, upon due proof of the publication aforesaid, shall appoint three disinterested persons who shall act as commissioners, and such commissioners within ten days after their appointment shall cause public notice to be given in the manner directed by the said general term, of their first sitting and may adjourn from time to time until all their business is completed. Vacancies in such commission may be filled by said general term after such notice to persons interested as the general term may deem proper, and the evidence taken before as well as after such vacancy occurred shall be deemed to be properly before such commissioners. The said commissioners shall determine after public hearing of all parties interested whether such railroad ought to be constructed and operated and shall

report the evidence taken to said general term, together with a report of their determination whether such road ought to be constructed and operated, which report if in favor of the construction and operation of such road shall, when confirmed by said court, be taken in lieu of the consent of the property owners above mentioned. Such report shall be made within sixty days after the appointment of said commissioners, unless the said court or a judge thereof shall extend such time.

§ 6. Detailed plan; subways for pipes and wires; work at points of subsurface structures; expenses, how paid.—When the consents of the local authorities and the property owners, or in lieu thereof, the authorization of the said supreme court upon the report of commissioners, shall have been obtained, the board of rapid transit railroad commissioners shall at once proceed to prepare detailed plans and specifications for the construction of such rapid transit railway or railways, including all devices and appurtenances deemed by it necessary to secure the greatest efficiency, public convenience and safety, including plans and specifications for suitable support, turnouts, switches, sidings, connections, landing places, buildings, platforms, stairways, elevators, telegraph and signal devices and other suitable appliances incidental and requisite to what the said board may approve as the best and most efficient system of rapid transit in view of the public needs and requirements, and the said board may in its discretion include in said plans provisions for subways or tunnels, for sewer, gas or water pipes, electric wires, and other conductors proper to be placed under ground, whenever necessary so to do in order to permit of the proper construction of any railway herein provided for in accordance with the plans and specifications of the said board. Whenever the construction of any railway, depressed way, subway or tunnel under the provisions of this act shall interfere with, disturb or endanger any sewer, water pipe, gas pipe or other duly authorized subsurface structure, the work of the construction at such points shall be conducted in the city of New York, in accordance with the reasonable requirements and under the supervision of the commissioner of public works, and in other cities in accordance with the reasonable requirements and under the supervision of the officer or local authority having the care of and the jurisdiction or control over such subsurface structures so interfered with, disturbed or endangered. All expenses incidental to such supervision and to the work of reconstructing, readjusting and supporting any such sewer, water pipe, gas pipe or other duly authorized subsurface structure shall be borne and paid by the company constructing any such railway, depressed way, subway or tunnel. At any time before the sale provided for in

the next section of this act, the board of rapid transit railroad commissioners may abandon any portion of a route or routes laid out and determined by said board. (*Thus amended by chap. 556, Laws of 1892.*)

§ 7. Public sale of franchise; notice thereof; terms and conditions; supervision of board and engineers; deposits by bidders; nullity of bids and rights thereunder; time for beginning and finishing road; forfeiture and resale of franchise; terms as to organization of corporation, etc.; rejection and acceptance of bids; terms on resales; adjournments; term of franchise; proviso as to extension.—The said board after having secured the necessary consents and after having prepared such detailed plans and specifications as are by this act provided for, shall sell at public auction in the city where said railway or railways are to be built and for the account and benefit of said city the right, privilege and franchise to construct, maintain and operate such railway or railways. Notice of the time and place of such sale shall be published three times a week for at least six successive weeks in at least three daily newspapers published in said city. The board may prescribe all such terms and conditions of sale as it may deem to be for the interest of the public and of the city in which the railway or railways are to be constructed. The advertisement of sale shall contain only so much of the said terms, plans and specifications for the construction as the board may think proper, but such advertisement must state at what place the full terms, plans and specifications may be examined, and they shall be subject to examination under such reasonable rules and regulations as the board may prescribe. The terms of sale shall provide for the construction of the railway or railways under the supervision of the board, and for the approval of an engineer or engineers to be appointed from time to time by the board, and the corporation or corporations to be organized for the purpose of constructing and operating such railway or railways as in this act provided shall pay such engineer or engineers such salary as may, from time to time, be fixed by the said board of rapid transit railroad commissioners. Such engineer or engineers shall hold their office at the pleasure of the said board. The terms of sale shall require the successful bidder to deposit with the comptroller or chief fiscal officer of the city, in cash or approved securities, such amount as the board may deem sufficient to constitute a guarantee of full compliance with the terms of sale by the purchaser and by the corporation to be formed for the purpose of building and operating said railway as hereinafter provided. Said bids and all rights which may have been acquired thereunder shall become null and void and of no effect, at the option of said

board, should there be a failure to organize a corporation to exercise such rights, privileges and franchises as required by said terms of sale and this act, or for any violation of any of the requirements of said terms of sale which should be complied with before such corporation is organized, and thereupon any deposit which may have been made pursuant to such terms of sale shall be paid into the treasury of such city upon a certificate being made and filed by said board with the public officer with whom such deposit shall have been made, that said bid and all rights which may have been acquired thereunder have become null and void and of no effect; and said rights, privileges and franchises shall be again sold by said board, subject to all the provisions of this act regulating such sales. The terms of sale shall require the construction of the road to be begun within a time to be specified in said terms of sale, and to be finished within a certain time thereafter to be specified therein and may prescribe the time within which portions of the same shall be begun and finished. The said terms of sale may reserve to the board the power to extend the times for the commencement and completion of the construction of said railway or of portions of the same if in its discretion the said board deem such extension to be for the best interests of the city. In case the corporation formed for the purpose of constructing said railway shall fail to begin or finish the construction within the times for those purposes respectively limited, all rights, privileges and franchises of such corporation to maintain and operate said railway shall be forfeited, and upon such forfeiture being adjudged by the court in a suit brought for that purpose in the name of the people, or by said board of rapid transit railroad commissioners, then the said board shall have power to advertise and resell said rights, privileges and franchises and so much of the road as shall have been constructed by such corporation; such suit shall have preference over all other cases in all courts; and the proceeds of such resale shall be applied first to the payment of the expenses of the resale, and then to the discharge of any liens which may have been created upon such property, and the balance shall be paid over to the said corporation. The terms of sale must provide for the organization by the purchaser or purchasers of such rights, privileges and franchises of a corporation to exercise the same, and to construct, maintain and operate such rapid transit railway or railways, with the powers and subject to the duties and liabilities granted or imposed by this act. The said terms of sale must also specify the amount of the capital of any such corporation, and number of shares

* So in the original.

of capital stock which such corporation shall be authorized to issue, the percentage to be paid in cash by the subscribers on subscribing for such shares, the maximum amount of the bonded indebtedness which such corporation be authorized to incur, and which may be secured by mortgage upon its property and franchises, and the maximum rates of fares and freight which such corporation may charge and collect for the carriage of persons and property. The said board may, if it considers that the public interest requires it to do so, reject all all* bids and readvertise the said rights, privileges and franchises for sale, with the same or different terms of sale, as often as it may deem necessary in the interest of such city, and shall finally accept that bid, which under all circumstances in its opinion is most advantageous to the public and such city; and no bid shall be accepted without the concurrent vote of four members of the board. The terms of sale on any such resale must contain all the provisions required by this act to be inserted in the original terms of sale. Such sale may be adjourned from time to time at the discretion of the board. All sales of such rights, privileges and franchises shall be made for a definite term of years, but the expiration of the term, if sold for a term of years, shall not impair any mortgage or other lien upon the property of such corporation or the rights of any creditor or creditors of such corporation; provided, however, that nothing herein contained shall be so construed as to extend the term for which such rights, privileges and franchises are sold.

§ 8. Resale of franchise after expiration of term ; purchasers ; new corporation.—Within one year, and not less than six months prior to the expiration of any term for which such rights, privileges and franchises shall have been sold, said board shall proceed to resell the right to maintain and operate the said railway. Such sale shall be made in the manner prescribed for the original sale, and the board is empowered to make suitable provisions for securing to the corporation then operating such railway or railways suitable compensation for the railroad structure and appurtenances, and for any other property, real or personal, which the said corporation may own or of which it may be vested at the expiration of the term for which such rights, privileges and franchises were sold. Any corporation theretofore organized under the provisions of this act may be a purchaser on such resale; but if no such corporation be the purchaser, a new corporation shall be formed to maintain and operate said road in the manner pre-

* So in the original.

scribed for the organization of a corporation on the original sale, except that the plans and specifications according to which said railway has been constructed need not be set out at large, but may be referred to as forming part of the articles of association of said new corporation.

§ 9. **Offices and assistance for board.**—The said board by the concurrent vote of four members thereof may rent such offices and employ such engineers, attorneys and other persons, from time to time as it may, in its discretion, deem necessary to the proper performance by it of its duties as in this act prescribed. All actions and special proceedings which may be brought pursuant to any of the provisions of this act shall be entitled, on the application of the board of rapid transit railroad commissioners, to a preference over any other business, except the actions and proceedings enumerated in sections seven hundred and eighty-nine and seven hundred and ninety of the Code of Civil Procedure, at a term or sitting of any court of this state, irrespective of its place upon the calendar; and all actions and special proceedings which may be brought by or against any commission or corporation created by or acting under a power or privilege granted under the provisions of this act shall have a like preference on the application of said commission or corporation. (*Thus amended by chap. 556, Laws 1892.*)

§ 10. **Appropriations for board; proceedings upon failure to appropriate amount; liability of city; audit and payment of expenditures; revenue bonds, issue of, etc.; repayment of expenses; compensation of commissioners; stated in terms of sale.**—The board of estimate and apportionment, or other board or public body on which is imposed the duty and in which is vested the power of making appropriations of public moneys for the purposes of the city government in any city in which it is proposed to construct such railway or railways, shall, from time to time, on requisition duly made by the board of rapid transit railroad commissioners, appropriate such sum or sums of money as may be requisite and necessary to properly enable it to do and perform or cause to be done and performed, the duties herein prescribed. And such appropriation shall be made forthwith upon presentation of a requisition from the board of rapid transit railroad commissioners, which shall state the purposes for which such moneys are required by the said board. In case the said board of estimate and apportionment or such other board or public body fail to appropriate such amount as the board of rapid transit railroad commissioners deem requisite and necessary, the said board of rapid transit railroad commissioners may apply to the general term of the supreme court, in the department in

which the railway is to be or has been constructed, on notice to the board of estimate and apportionment or such other board or public body aforesaid, to determine what amount shall be appropriated for the purposes required by this section, and the decision of said general term shall be final and conclusive. And no city shall be liable for any indebtedness incurred by the said board of rapid transit railroad commissioners in excess of such appropriation or appropriations. It shall be the duty of the auditor and comptroller of any such city, after such appropriations shall have been duly made, to audit and pay the proper expenditures of said commissioners upon vouchers therefor, to be furnished by the said commissioners, which payments shall be made in like manner as payments are now made by the auditor, comptroller or other public officers of claims against and demands upon such city; and for the purpose of providing funds with which to pay the said sums, the comptroller of said city is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of receipt of taxes, and out of the proceeds of such bonds to make the payments in this section required to be made. And the amount necessary to pay the principal and interest of such bonds shall be included in the estimates of moneys necessary to be raised by taxation to carry on the business of said city, and shall be made a part of the tax levy for the year next following the year in which such appropriations are made. All expenses of the said board of rapid transit railroad commissioners so incurred and paid by any city as in this section provided, and for which any city shall be liable, shall be repaid with interest by the bidder or bidders at the public sale of the rights, privileges and franchises as in this act provided whose bid shall be accepted by the board of rapid transit railroad commissioners, and the terms of such sale shall specify the time when such payment shall be made, as well as the amount thereof. The commissioners shall be paid a reasonable compensation for the duties performed by them in relation to each railway located by them under the provisions of this act. The amount of such compensation shall be determined by the general term of the supreme court in the department in which the railway is to be located upon application by the board of rapid transit railroad commissioners, after notice to the mayor of the city in which the railway is to be built. The amount of such compensation shall be stated in the terms of sale, and shall be paid by the purchaser.

§ 11. Corporations, how organized; articles of association; approval and filing thereof; subscriptions to stock; meeting of subscribers; preference in subscriptions, etc.—A corporation or corporations to construct and operate such rapid transit railway or railways,

and to enjoy and exercise the rights, privileges and franchises in this act provided for shall be created and organized in the manner following: Articles of association shall be duly signed and acknowledged by not less than twenty-five persons, and such articles shall set forth the name of the proposed corporation and duration thereof. Said articles must also state that they are made and filed under and in pursuance of this act for the purpose of taking and exercising the rights, privileges and franchises so purchased as aforesaid, according to the terms of sale; and such terms of sale and all plans and specifications must be made a part of said articles, annexed thereto and filed therewith. The said articles must also contain such other provisions as the said board may deem requisite and necessary, not inconsistent with the terms of sale or with this act. The said articles must be approved by said board, by the concurrent vote of four members, and its approval must be indorsed thereon and attested by the seal of the board and the signature of its presiding officer, and must then be filed in the office of the secretary of state, and a duly certified copy, or a duplicate thereof, must be filed in the office of the clerk of the county in which such railway or railways are to be constructed. Immediately after the articles of association shall have been so made, approved and filed, the board of rapid transit railroad commissioners shall cause books of subscription to the capital stock of any such corporation to be opened, and shall give public notice of the opening of such books and of the time and place at which subscriptions will be received; and when the full amount of such capital stock shall have been subscribed by not less than fifty persons, and such percentage of the amount subscribed as may have been fixed by the board in the terms of sale shall have been paid in, in cash, to such bank or trust company as the board may select, the said board shall call a meeting of the subscribers for the purpose of organizing the corporation, serving upon or mailing to each subscriber a notice of such meeting at least ten days before the time appointed for holding the same; and the person or persons whose bid shall have been accepted by the said board of rapid transit railroad commissioners shall, if they elect to become subscribers to the capital stock of such corporation, be entitled to a preference for themselves and their associates in subscribing for, and in the allotment of the shares of capital stock of such corporation.

§ 12. Election of first directors; by-laws to be adopted.—At such meeting of subscribers thirteen directors of the corporation shall be elected, each of whom shall be a holder in his own right of at least one hundred shares of the capital stock of the corporation, and the board of

rapid transit railroad commissioners shall appoint the the* inspectors of the first election. Each share of stock shall entitle the holder to one vote for each director. The directors so selected shall hold office for one year and until others are elected in their places. At such meeting by-laws must be adopted not inconsistent with this act, which by-laws shall, among other things, provide for:

1. The term of office of the directors elected at any subsequent meeting of stockholders, which term shall not exceed one year.

2. The manner of filling any vacancy which may occur in any office or in the board of directors.

3. The time and place of the annual meeting of stockholders.

4. The manner of calling and holding special meetings of stockholders.

5. The number of stockholders who shall attend, either in person or by proxy, at any stockholders' meeting in order to constitute a quorum.

6. The officers of the corporation, the manner of their election by the directors, and their duties and powers, and among which officers there shall be included a president, a secretary and a treasurer.

7. The manner of electing or appointing inspectors of election.

8. The manner of amending the by-laws.

The by-laws may also provide for the forfeiture of shares for the non-payment of calls and for such other matters as may be deemed proper by the board of rapid transit railroad commissioners and they must be approved by a resolution of said board.

§ 13. Record of proceedings; certificate of organization; record and certificate to be filed; payment of deposit to corporation; repayment to purchaser of franchise.—Within ten days after the said subscribers' meeting a record of the proceedings thereof, containing a copy of the subscription list, a copy of the by-laws adopted, and the names of the directors chosen, shall be prepared and duly certified by the person presiding over, and person acting as secretary of said meeting. There shall be attached thereto a certificate of the board of rapid transit railroad commissioners, attested by its seal and the signature of its presiding officer, that said board has approved the by-laws adopted at the subscribers' meeting, and that said corporation has been organized in accordance with the provisions of this act. The said record and certificate shall be filed by said board in the office of the secretary of state, and a duly certified copy or duplicate thereof shall be filed in the office of the clerk of the county in which said railway or railways are to be built and thereupon and upon the payment to the state treasurer of a tax

* So in the original.

of one-eighth of one per centum of the par value of the capital stock of said corporation, such corporation shall be deemed to be fully organized. A copy of said certificate, duly certified by the secretary of state, or by the county clerk in whose office it is filed, shall be presumptive evidence of the due organization of such corporation in all courts and proceedings. Upon the production of the certified copy of said certificate, and upon the order of such corporation, the bank or trust company in which the percentage of subscriptions to the capital stock shall have been deposited, shall pay over to any such corporation the amount of such deposit, and said corporation shall repay to the purchaser or purchasers at the sale provided for in section seven of this act, the expenses paid by him or them to the city pursuant to the provisions of the terms of sale, with interest to the date of such repayment.

§ 14. Modification of plans, etc.; certificate thereof; filing of certificate and modified plan.—The said board of rapid transit railroad commissioners, if, in their judgment, the public interest requires, may, at any time after the full organization of any such corporation, by the concurrent vote of four members, authorize such corporation to alter or add to the detailed plans and specifications contained in its articles of association, provided the plans and specifications as so modified do not change the route or routes of said railway and be not inconsistent with the general plan of construction, adopted under the provisions of section four of this act, and provided also such modifications be first approved by a vote of two-thirds of the directors of said corporation present and voting at any special meeting duly called for the purpose, by written notice stating the nature of the business to be transacted at said meeting. When such authorization by the board of rapid transit railroad commissioners shall have been given, a certificate shall be prepared, and acknowledged by the president and a majority of the directors of said corporation, stating the nature of the modification, and that the same has been approved by the board of directors in the manner above set forth, to which certificate there shall be attached a copy of so much of the original plans and specifications as are to be affected by the modification, and also the plans and specifications as modified. There shall also be contained in such certificate a declaration of the approval of said board of rapid transit railroad commissioners, attested in the same manner as the certificate of full organization. The said certificate, plans and specifications shall then be filed in the office of the secretary of state, and a certified copy or duplicate thereof shall be filed in the office of the clerk in which the

articles of association are filed. And thereupon said corporation shall be authorized to construct its railway or railways and appurtenances in accordance with such modified plans and specifications.

§ 15. **Principal office and place of taxation.**—Every corporation organized under this act shall have its principal office and be taxed on its property in the city where its railway or railways are situated. But no taxes of any kind or nature shall be levied or imposed upon that portion of any railway constructed under this act which is in process of construction, and not in actual operation for the transportation of passengers or freight, but this exemption from taxation during construction shall not apply to any portion or portions of said railway after the date on which said portion or portions shall have been opened to the public for the transportation of passengers or freight. (*Thus amended by chap. 556, Laws 1892.*)

§ 16. **Board of directors ; vacancies and qualifications ; exhibition of books.**—The affairs of said corporation shall be managed by a board of thirteen directors, who shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. No person shall be a director unless he shall be a stockholder owning one hundred shares of stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such corporation shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

§ 17. **Payment of subscription to stock.**—The directors shall require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in money at such times and in such installments as they may deem proper, not inconsistent with the by-laws and the articles of association.

§ 18. **Personal liability of stockholders ; notice and commencement of action ; recovery by stockholder.**—Each stockholder of any corporation formed under this act shall be individually liable to the creditors of such corporation, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such corporation,

until the whole amount of the capital stock so held by him shall have been paid to the corporation; and all the stockholders of any such corporation, shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services, for thirty days' service performed for such corporation, but shall not be liable to an action therefor before an execution or executions shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution or executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and he shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold.

§ 19. **Transfer of stock.**—The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

§ 20. **Increase or reduction of capital; notice to stockholders; statement to be made and filed.**—Any corporation formed under this act may increase or reduce its capital stock from time to time upon obtaining the approval of the board of rapid transit railroad commissioners by a concurrent vote of four members thereof. Such increase or reduction must be approved by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the corporation, at a meeting of such stockholders called by the directors of the corporation for that purpose, by a notice in writing to each stockholder, to be served on him in the manner provided for service of the notice of the subscribers' meetings provided for in section eleven of this act. Such notice shall state the time and place of the meeting, and its object, and the amount to which it is proposed to increase or reduce the capital stock. A statement of the increase or reduction shall be signed by the president and a majority of the directors and shall be filed in the office of the secretary of state and of the clerk of the county in which the original articles of association are filed. There must be attached

thereto a certificate of the approval of said board of rapid transit railroad commissioners attested in the same manner as the certificate of full organization.

§ 21. Liability of certain holders of stock.—No person holding stock in any such corporation, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as a stockholder of such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

§ 22. Liability of corporation to employe; of contractors; notice to be given; action when commenced.—As often as any contractor for the construction of any part of a railway, which is in progress of construction under the provisions of this act, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said corporation in the manner herein provided; and said corporation shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said corporation therefor. Such notice shall be given by said laborer to said corporation within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent or superintendent employed by such corporation having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any corporation under the provisions of this section, unless the same be commenced within thirty days after notice is given to such company by such laborer as above provided.

§ 23. Real estate; proceedings to acquire title.—Every such corporation shall have the right to acquire and hold such real estate or easement or other interest therein, or rights appertaining thereto, as may

be necessary to enable it to construct, maintain and operate the said railway, or railways, and such as may be necessary for stations, depot, engine-house, car-houses, machine-shops and other appurtenances specified in the articles of association; and in case any such corporation can not agree with the owner or owners of such property it shall have the right to acquire title to the same in pursuance of the terms of and in the manner prescribed in title one of chapter twenty-three of the Code of Civil Procedure, known as the condemnation law.

§ 24. Corporate powers; voluntary grants; purchase of property; may cross and unite with other roads; compensation; transportation of persons and property; entry upon streets, etc.; construction and maintenance of road; excavations; parks and streets, use or occupancy of; right to borrow money and issue bonds.—Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railway or railways, but the real estate received by voluntary grant shall be held and used for the purpose of such grant only.

2. To purchase, lease, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railway or railways, and the stations or other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing or in any way affecting the act, entitled "An act authorizing the construction of railroads upon Indian lands," passed May twelve, eighteen hundred and thirty-six.

3. To cross, intersect, join and unite its railway or railways with any other railway at any point on its route and upon the grounds of such other railway company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the objects of its connections. And every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the owners of such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed by the court, in the manner provided in this act in respect to acquiring title to real estate. And if the two corporations cannot agree upon the points and manner of such crossings and connections, the board of

rapid transit railroad commissioners shall determine the same on the application of either corporation.

4. To take and convey persons and property on its railway or railways by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor not inconsistent with the provisions of this act, and the terms of sale under which the said corporation shall have acquired its rights, privileges and franchises.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said board of rapid transit railroad commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said board, a railway or railways upon the route or routes, and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said board, and which may be necessary for operating the same, except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway in actual operation at the grade thereof, and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surface of said streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and under the direction of the proper local authorities; and in all cases the use of streets, avenues, places and lands designated by the said board, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for such purposes; but the amount of such bonds outstanding at any one time shall not exceed the amount limited by the articles of association. (*Thus amended by chap. 556, Laws of 1892.*)

§ 25. **Employees to wear badges.**—Every conductor, baggage master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letter of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

§ 26. **Carrying of mails; extra trains therefor.**—Any such corporation, shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case the parties can not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and conditions of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services to be fixed as aforesaid.

§ 27. **Ejection of passengers from cars.**—If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, on stopping the train.

§ 28. **Running of cars and conveyance of freight and passengers.**—Every such corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junction of other railroads, and at usual

stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor, and shall be liable to the party aggrieved in an action for damages, for any neglect or refusal in the premises.

§ 29. **Intoxication of employees.**—If any person shall, while in charge of a locomotive engine running upon the railway of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

§ 30. **Willful injury to property.**—If any person or persons shall willfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of any railway corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained in consequence of such offense.

§ 31. **Dissolution by legislature.**—The legislature may, at any time annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporations, its stockholders or officers, for any liability which shall have been previously incurred.

§ 32. **Power to fix connecting routes and extend lines; additional tracks and facilities; plans, compensation, etc.; certificate by board; delivery and filing thereof; powers conferred thereupon; right to construct; consent of property owners and local authorities.**—The said board of rapid transit railroad commissioners may also from time to time, upon application of any railway corporation owning or actually operating a railroad wholly or in part within the limits of any city in which the said board has power to act, if in the judgment of said board the public interests so demand, by the concurrent vote of all the members of said board fix and determine the route or routes by which any such railway company may connect with other steam railways, or the stations thereof, or with steam ferries, or may extend its lines within said city and may authorize any such railway company to lay an additional track or tracks on, above, under or contiguous to a portion or the whole of the route or routes of its

railway or railways within said city*and to acquire terminal or other facilities necessary for the accommodation of the traveling public on any street or place except the place now known as Battery park on which said railway shall be located; and the said board shall fix and determine, the locations and plans of construction of the railways upon such route or routes and of such tracks and facilities, the times within which they shall be respectively constructed, the compensation to be made therefor to the city by said railway company, and such other terms, conditions and requirements as to the said board may appear just and proper. A certificate shall be prepared by the said board, attested by its seal and the signatures of its presiding officer, setting forth in detail the action taken by the said board with respect to such connecting or extended route or routes and such tracks and facilities, and the terms, conditions and requirements aforesaid. Such certificates shall be delivered to said railway corporation upon the receipt by said board of a written acceptance of said terms, conditions and requirements, duly executed by said railway corporation, so as to entitle it to be recorded. The said certificate shall be filed in the office of the secretary of state, and a duly certified copy thereof shall be filed in the office of the clerk of the county in which the railways of said railway corporation are situated, and thereupon, and upon fulfillment by such railway corporation, so far as it relates to such connections, additional track or tracks, or facilities, of such of the requirements and conditions as are necessary to be fulfilled in such cases, under section eighteen of article three of the constitution of this state, and upon fulfillment by such railway corporation of such other terms, conditions and requirements enumerated in said certificate, as the said board may require to be fulfilled as a condition precedent to commencing said work, said railway company shall in such cases possess in addition to existing franchises all the powers conferred by this act upon corporations specially formed thereunder, with respect to its railways authorized to be constructed as aforesaid, and when any route or routes, additional track or tracks, or terminal or other facilities, shall be so fixed and determined, and a certificate as aforesaid shall have been duly filed, such railway company may construct the same with all the rights, and with like effect as though the same had been a part of the original route of its railway then in actual operation. But the construction and operation of such connections, extensions, additional track or tracks, or facilities, are hereby authorized only upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or high-

way upon, above or under which it is proposed to construct or operate the same, be first obtained, or in case the consent of such property owners can not be obtained, the general term of the supreme court in the district in which they are proposed to be constructed, may, upon application, in the same manner and on the same notice specified in section five of this act, appoint three commissioners, who shall determine after a hearing of all parties interested, whether the same ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 33. Removal of horse railway tracks; costs and charges.— Wherever the route selected by the said board of rapid transit railroad commissioners for the construction of such railway shall intersect, cross or coincide with any railway track or tracks occupying the surface of any street or avenues, any corporation organized under this act is hereby authorized, for the purpose of constructing the said work, to remove the track or tracks of any such surface railway or railways, but the same shall be done in such manner as to interfere as little as possible with the practical operation or workings of such surface railway or railways, and upon the construction of such railway built under and in conformity with the provisions of this act, where such removals or changes have been made, the same shall be restored, as nearly as may be, to the condition in which they were previous to the construction of any such railway built under the provisions of this act, and any damage which such company or companies may sustain, shall be ascertained by a commission to be appointed the same as in the case where lands are taken for the purposes of a railway route or routes as hereinbefore provided in this act. All such removals and restorations shall be made at the proper cost and charge of such corporation as may have entered upon the occupancy of such street or streets. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway.

§ 34. Construction of act.— This act shall not be construed to repeal or in any manner affect chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act to further provide for the construction and operation of a steam railway or railway in the counties of this state," or the acts amendatory thereof or supplementary thereto, or article five of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except so far as the said acts, or either of them, would if this act had not been passed, authorize the appointment here-

after of any commissioners applied for as provided in section one of said act of eighteen hundred and seventy-five, or in section one hundred and twenty of said act of eighteen hundred and ninety, in any city or cities containing a population of over one million inhabitants, according to the last preceding national or state census or authorize any commissioners already appointed pursuant to the provisions of such act or acts in any such city or cities, to fix, determine or locate any new route or routes, pursuant to the provisions of either of said acts. This act shall not be construed in any manner to affect the exercise or enjoyment at any time, and from time to time hereafter, of any right or rights heretofore acquired, exercised or enjoyed by any corporation heretofore duly incorporated and organized or deriving powers and rights under the laws of this state. This act shall not affect or impair the exercise or enjoyment of any right or rights now possessed or heretofore acquired or heretofore authorized to be acquired, exercised or enjoyed by any street surface railroad corporation, except as herein otherwise expressly provided, and this act shall not be construed to repeal or in any manner affect chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or either of the several acts amendatory thereof or supplementary thereto. This act shall not be construed to repeal or in any manner affect chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except hereinabove expressly provided, or except so far as the provisions of the same conflict with the provisions of this act.

§ 35. **No surface roads under act.**—No railroad shall be constructed or operated upon the surface of any street, avenue or highway in the city of New York under the provisions or authority of this act.

§ 36. **Repeal.**—All acts or parts of acts local or general inconsistent with this act are hereby repealed.

§ 37. This act shall take effect immediately.

§ 38. The board of directors of any company incorporated for the purpose of constructing, maintaining or operating a bridge or bridges connecting a city of more than one million inhabitants with any other city in this state, and by the act of incorporation of which authority shall have been conferred or intended to be conferred, to construct, maintain or operate, as a part of or in connection with its bridge, an approach or approaches thereto extending generally in an easterly and

westerly direction, may determine in lieu of constructing such approach or approaches, to build, maintain and operate an elevated railway, the route of which shall be coincident with the route of such approach or approaches as defined in said act, and shall adopt a general plan for the construction thereof, and which shall show the general mode of operation, and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue, or other public place is to be encroached upon and the property abutting thereon affected, a copy of which plan shall be transmitted to the common council of the city in which the same is to be located. Such proceedings shall thereupon be had by such common council as are provided by section five of this act, as though such plans had been transmitted by the rapid transit commissioners as contemplated in said section. Provided, that where, in any such city the exclusive control of any street, route, highway or avenue, which is to be occupied by any railway or railways constructed under the provisions of this section is by law vested in any local authority other than the common council of such city, the approval of the aforesaid plans, and consent to the construction of a railway thereunder shall be given by such local authority in place of, and if required in addition to such approval and consent by such common council, and with like effect. Upon obtaining the approval and consent of the local authorities as in said section provided, the said board of directors shall take the necessary steps to obtain, if possible, the consent of the property owners along the line of the said route or routes, and all proceedings in respect of such consents or when such consents can not be obtained shall be similar in all respects to the proceedings in said section provided. Any consent of the local authorities to construct or operate such railway shall be given only upon the condition that the rate of fare upon such elevated railway shall not exceed five cents for each passenger, and that payment of such fare shall entitle each passenger to and from such elevated railroad to free transit across the bridge or bridges with which it is intended to connect the same. When the consents of the local authorities and the property owners, or in lieu thereof, the authorization of the supreme court upon the report of the commissioners shall have been obtained, and the said company shall have accepted such condition it shall have all the powers of corporations formed under this act, it shall be authorized to build, construct, maintain and operate such elevated railway or railways, but all provisions of this act, or of any act requiring the sale of the right, privilege and franchise of constructing, maintaining and operating such railway or railways, or requiring

a corporation or corporations to be organized for the purpose of acquiring such right, privilege and franchise, and all other provisions of this act or of any act inconsistent with this section, are hereby declared inapplicable to such elevated railway and to such company. The entire route of any elevated railway constructed under the provisions of this section shall not exceed three miles in length, nor shall any part of said railway, except at the termini thereof be less than sixteen feet above any street, avenue or public place, or less than fourteen feet above any existing elevated railway, which may be crossed, intervened or intersected thereby. The said railway may be located and constructed so as to cross any intersecting street, avenue, highway or place otherwise exempted, except that no public park shall be occupied or crossed thereby, the structure of such elevated railway shall be liable to taxation as provided by law for similar structures. (*This section added by chap. 102, Laws 1892.*)

INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AND AS AMENDED BY ACT APPROVED MARCH 2, 1889.

Carriers and transportation subject to the act.—*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

What the terms "railroad" and "transportation" include.—The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

Charges to be reasonable.—All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, deliver-

ing, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

§ 2. Unjust discrimination forbidden.—That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

§ 3. Undue or unreasonable preference or advantage forbidden.—That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Facilities for interchange of traffic.—Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

§ 4. Long and short haul provision.—That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being

included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance; *Provided, however,* that upon application to the commission appointed under the provisions of this act, such common carriers may, in special cases, after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

§ 5. Pooling of freights and division of earnings forbidden.—That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freight as aforesaid, each day of its continuance shall be deemed a separate offense.

§ 6. Printing and posting of schedules of rates, fares and charges.—(*As amended.*) That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received, for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

Printing and posting of schedules of rates on freight carried through a foreign country.—Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in

like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

Ten days' public notice of advance in rates to be given ; three days' public notice of reduction in rates to be given.—No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous notice, to be given in the same manner that notice of an advance in rates must be given.

Published rates not to be deviated from.—And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares and charges as may at the time be in force.

Copies of schedules of rates, fares and charges to be filed with Commission ; copies of contracts and agreements to be filed with Commission ; joint tariffs to be filed with Commission ; power of Commission to prescribe publicity.—Every common carrier subject to the provisions of this act shall file with the commission hereinafter provided for copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes made in the same. Every such common carrier shall also file with said commission

copies of all contracts, agreements or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said commission. Such joint rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said commission, in so far as may, in the judgment of the commission, be deemed practicable; and said commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

Ten days' notice to Commission of advance in joint rates, fares and charges; three days' notice to Commission of reduction in joint rates, fares and charges; power of Commission to make advances or reductions public.—No advance shall be made in joint rates, fares and charges, shown upon joint tariffs, except after ten days' notice to the commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares or charges will go into effect. No reduction shall be made in joint rates, fares and charges, except after three days' notice, to be given to the commission as is above provided in the case of an advance of joint rates. The commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

Joint rates, fares and charges not to be deviated from.—It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect or receive from any person or persons, a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare or charge is named thereon than is specified in the schedule filed with the commission in force at the time.

Commission may prescribe forms of schedules of rates, fares and charges.—The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public

inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

Penalties for neglecting or refusing to file or publish rates, fares and charges.— If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States at the relation of the commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several states and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several states and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

§ 7. Continuous carriage of freights not to be unnecessarily interrupted.— That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

§ 8. **Liability of common carriers for damages.**—That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

§ 9. **Persons claiming to be damaged may complain to Commission or bring suit in United States courts; officers, etc., of defendant may be compelled to testify.**—That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee or agent of the corporation or company defendant in such suit to attend, appear and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

§ 10. **Penalties for violations of act by carriers, their officers or agents; fine and imprisonment.**—(*As amended.*) That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit

or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, that if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Penalties for false billing, etc., by carriers, their officers or agents; fine and imprisonment.—Any common carrier subject to the provisions of this act or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who by means of false billing, false classification, false weighing, or false report of weight, or by any other devise or means, shall knowingly and willfully assist, or shall willingly suffer or permit any person or person to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

Penalties for false billing, etc., by shippers and other persons; fine and imprisonment.—Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other devise or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then

established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

Penalties for inducing common carriers to discriminate unjustly; fine and imprisonment; joint liability with carrier for damages.—

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise induce any common carrier subject to the provision of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment for a term of not exceeding two years or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable jointly or severally, in an action on the case to be brought by any consignor or consignee, discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

§ 11. Interstate Commerce Commissioners — how appointed; terms of Commissioners.—That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The commissioners first appointed under this act shall continue in office for the term of two, three, four, five and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the commissioner whom he shall succeed. Any commissioner may be removed by the President for inefficiency, neglect of duty or

malfeasance in office. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stocks or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said commissioners shall not engage in any other business, vocation or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

§ 12. **Power of Commission to inquire into business of carriers; Commission required to enforce the provisions of the act; power of the Commission to require attendance of witnesses and production of books and papers.**—(*As amended.*) That the commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created; and the commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the commission, it shall be the duty of any district attorney of the United States to whom the commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience to a subpoena, the commission, or any party to a proceeding before the commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

Punishment for refusal to testify or produce books and papers.— And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the

provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

§ 13. Complaints to Commission; how and by whom made; reparation by carriers before investigation; investigations by the Commission.—That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any state or territory at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

§ 14. Findings of Commission prima facie evidence in judicial proceedings.—(*As amended.*) That whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with

its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured, and such findings so made shall thereafter, in judicial proceedings, be deemed *prima facie* evidence as the each and every fact found.

All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carriers that may have been complained of.

Reports and decisions; authorized publication to be competent evidence; publication and distribution of annual reports of Commission.—The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained, in all courts of the United States, and of the several States, without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.

§ 15. Notice to common carriers to cease from violation of act; compliance with notice to cease from violation of act; reparation.—That if in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the commission; and if, within the time specified, it shall be made to appear to the commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been, in compliance with the report and notice of the commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

§ 16. Petition to United States courts in cases of disobedience to order of commission; power of United States courts to hear and determine cases of disobedience; writs of injunction or other process against carriers in cases of disobedience; punishment for refusal to obey writs of injunction or other proper process; fine; appeals to Supreme Court of United States.—*(As amended.)* That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the commission created by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, it shall be lawful for the commission or for any company or person interested in such order or requirement, to apply in a summary way, by petition, to the Circuit Court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter as speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said commission drawn in question has been violated or disobeyed it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more

of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court, to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the commission it shall be the duty of the district attorney, under the direction of the attorney-general of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Petition to United States courts in cases of disobedience when trial by jury is necessary ; trial by jury ; trial by court ; appeals to supreme court of United States ; counsel or attorney's fees.—If the matters involved in any such order or requirement of said commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such

order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceedings is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury, the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more either party may appeal to the supreme court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session.

§ 17. Interstate Commerce Commission — form of procedure; official seal.— (*As amended.*) That the commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said commission and be heard, in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said commission shall have an-

official seal, which shall be judicially noticed. Either of the members of the commission may administer oaths and affirmations and sign subpoenas.

§ 18. Salaries of Commissioners; secretary — how appointed; salary; offices and supplies; witness fees.—(*As amended.*) That each commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The commission shall have authority to employ and fix the compensation of such other employes as it may find necessary to the proper performance of its duties. Until otherwise provided by law the commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Expenses of the Commission — how paid.—All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employes under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the commission.

§ 19. Principal office of the Commission — sessions of the Commission.—That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

§ 20. Carriers subject to the act must render full annual reports to Commission; Commission may prescribe methods of keeping accounts.—That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and

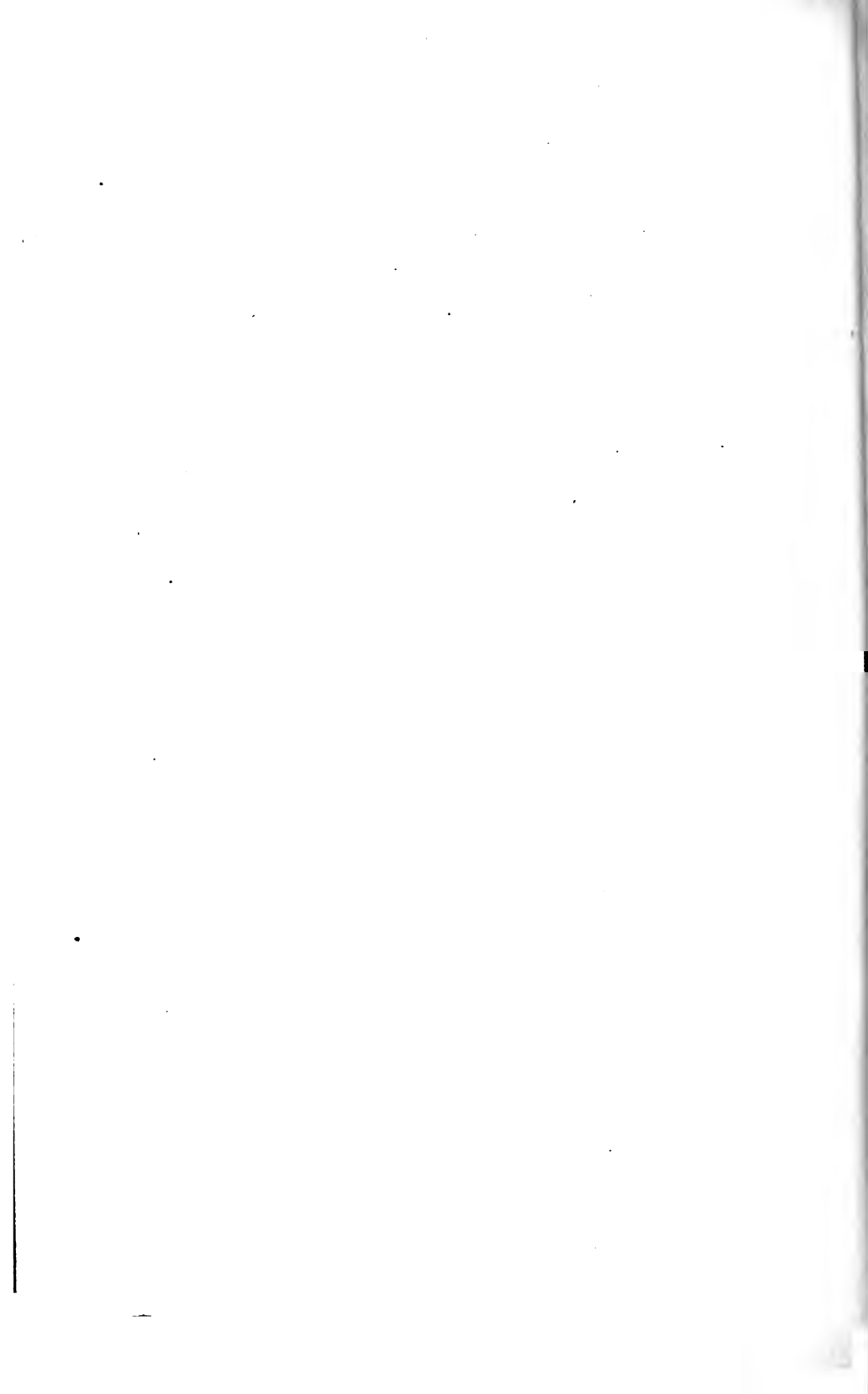
to require from such carriers specific answers to all questions upon which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipments; the number of employees and the salaries paid each class, the amounts expended for improvements each year, how expended and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such report shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements or contracts with other common carriers, as the commission may require; and the said commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

§ 21. Annual reports of the Commission to Congress.—(*As amended.*) That the commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to congress, and copies of which shall be distributed as are the other reports transmitted to congress. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the commission may deem necessary; and the names and compensation of the persons employed by said commission.

§ 22. Persons and property that may be carried free or at reduced rates; mileage, excursion, or commutation passenger tickets; passes and free transportation to officers and employees of railroad companies; pending litigation not affected by act.—(*As amended.*) That nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of desti-

tute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangement with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes; and nothing in this act contained shall in any way abridge or alter the remedies now existing by common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act.

Jurisdiction of United States courts to issue writs of peremptory mandamus commanding the movement of interstate traffic or the furnishing of cars or other transportation facilities.—
(*New section.*) That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement.



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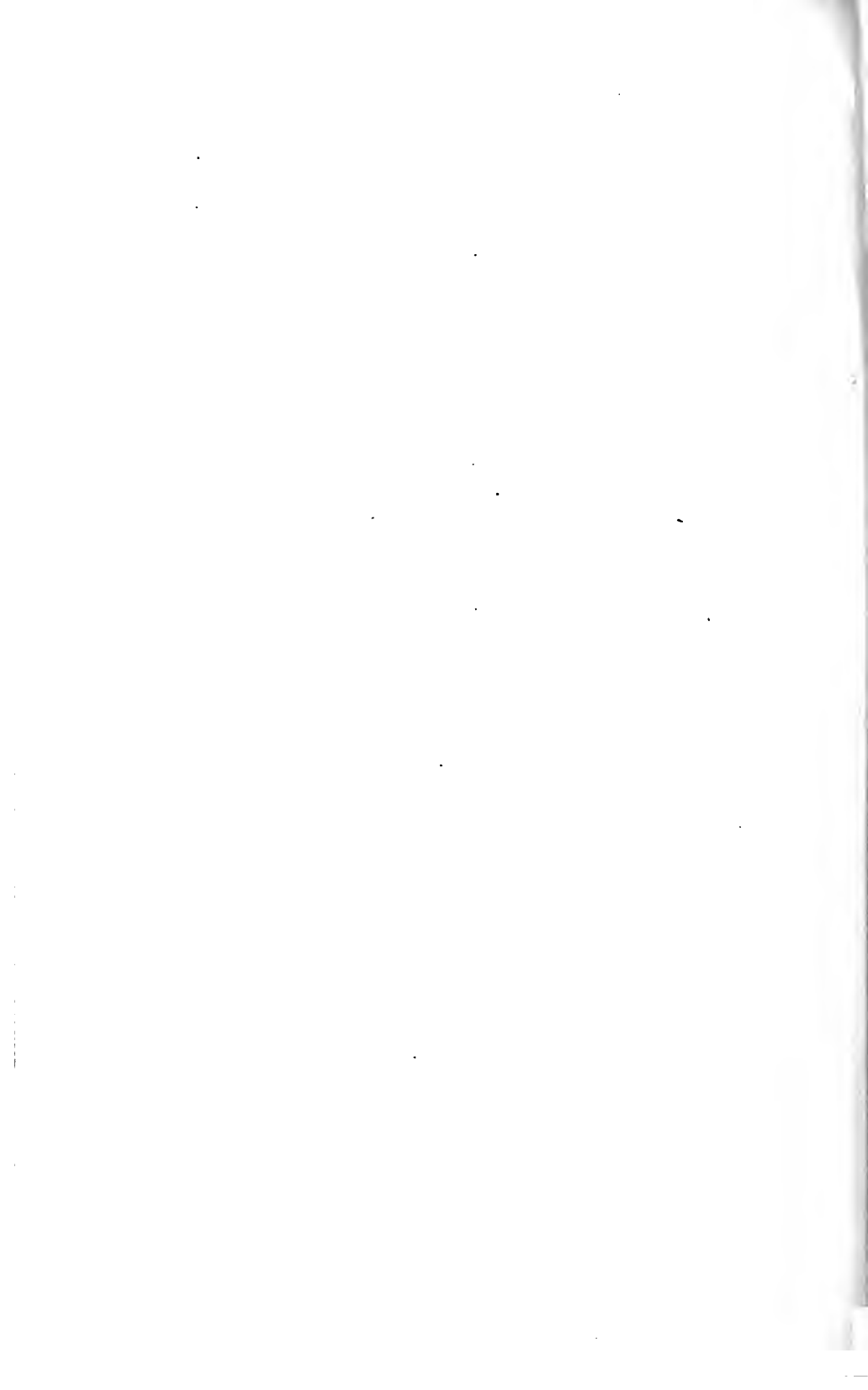
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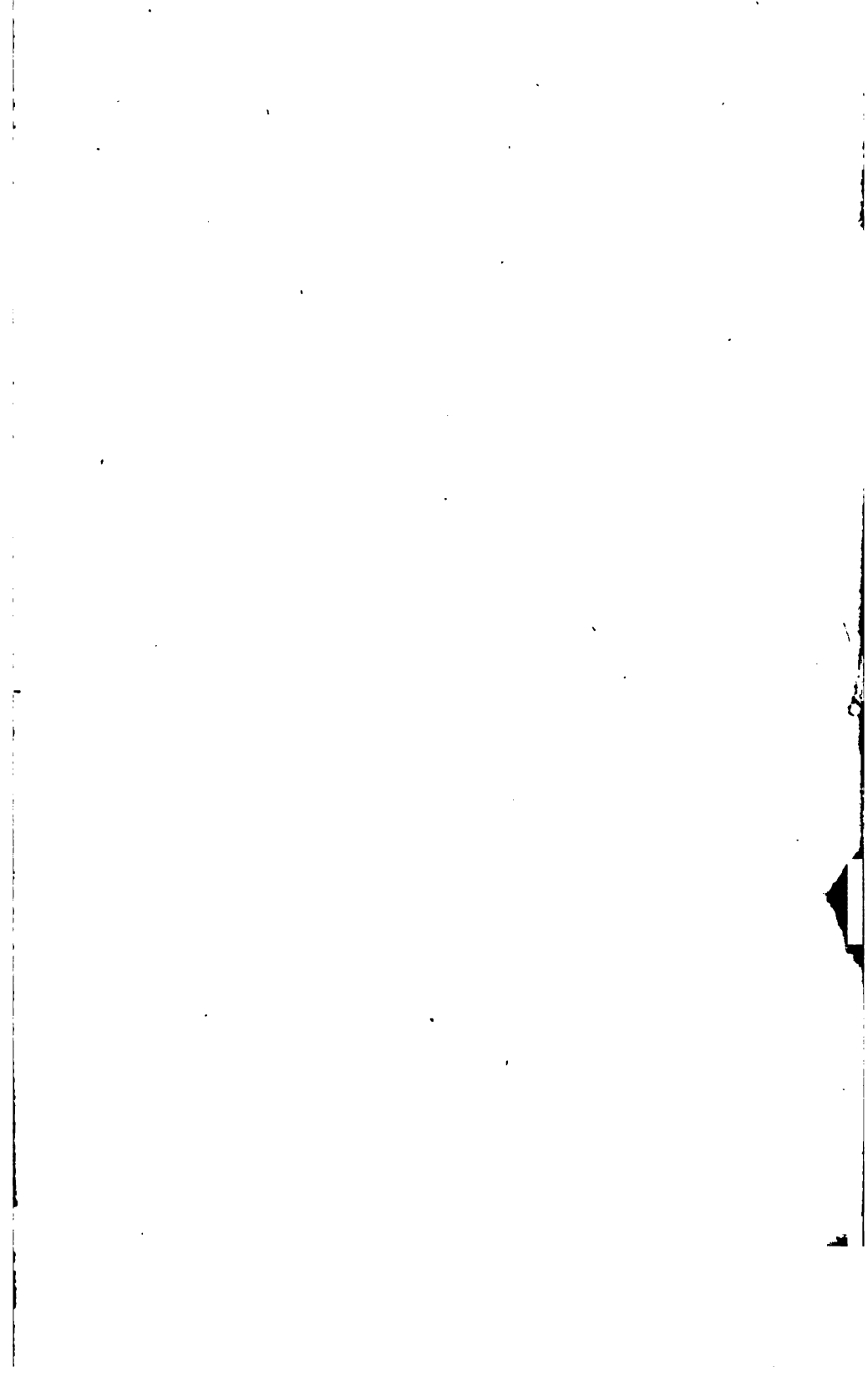
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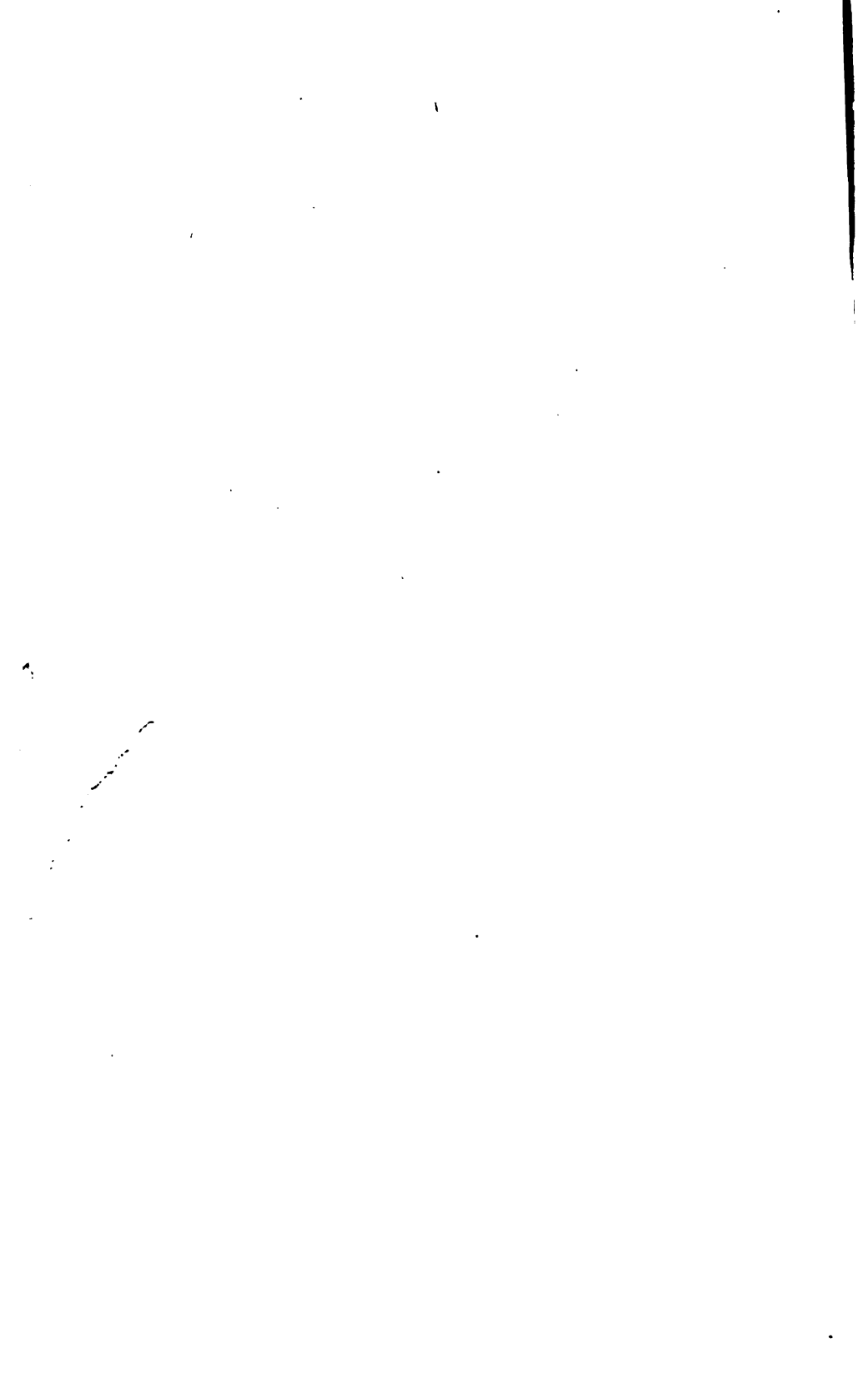
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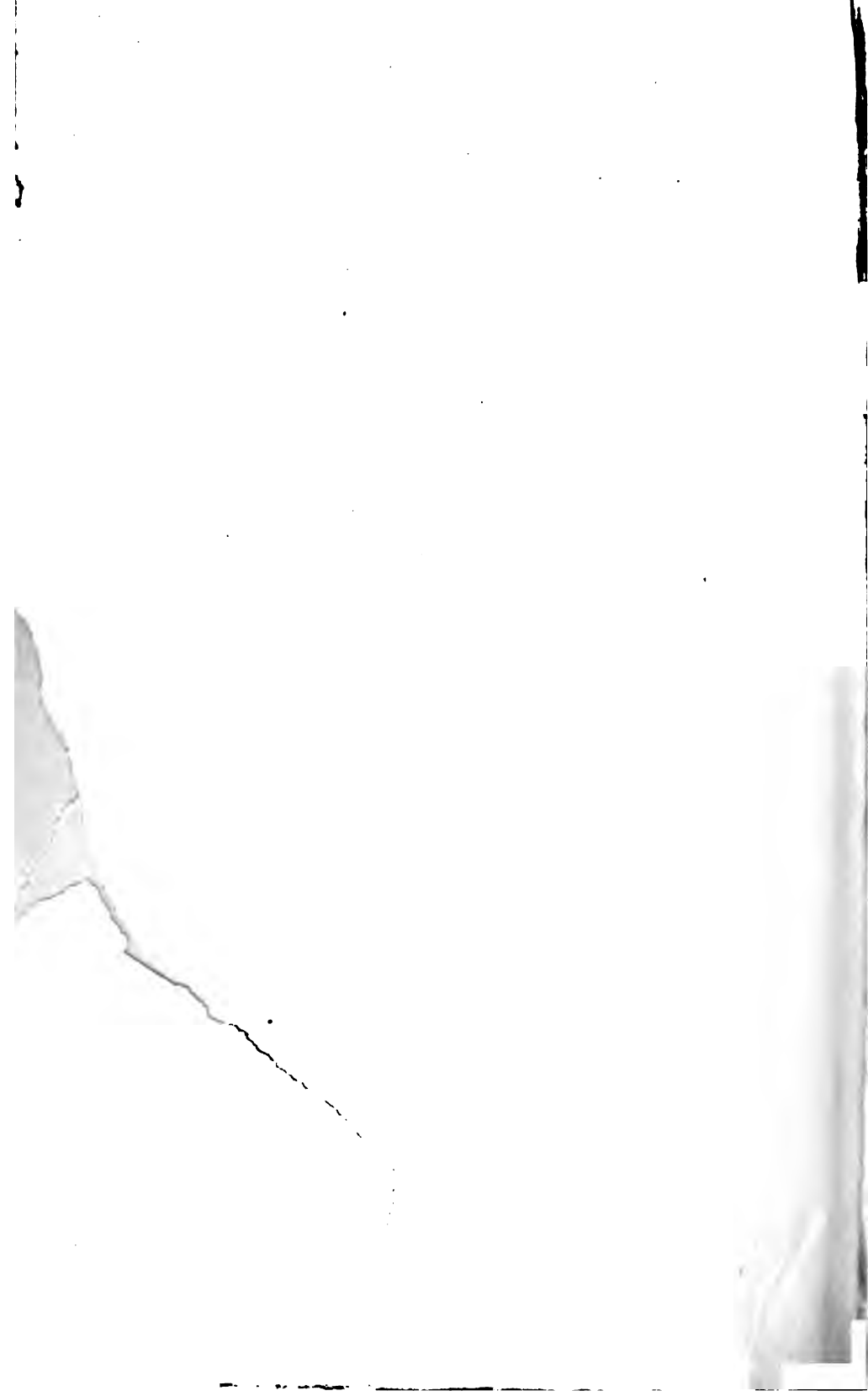
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